

George Morris

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE NORTHERN DISTRICT OF ALABAMA</p> <p>3 MIDDLE DIVISION</p> <p>4</p> <p>5</p> <p>6 CASE NUMBER: 4:15-cv-1152-VEH</p> <p>7</p> <p>8</p> <p>9 MICHELLE LEE HELM,</p> <p>10 Plaintiff,</p> <p>11</p> <p>12 vs.</p> <p>13</p> <p>14 RAINBOW CITY, ALABAMA, et al.,</p> <p>15 Defendants.</p> <p>16</p> <p>17</p> <p>18</p> <p>19 DEPOSITION OF GEORGE MORRIS</p> <p>20 DATE TAKEN: May 19, 2016</p> <p>21</p> <p>22</p> <p>23</p>	<p>1 IT IS FURTHER STIPULATED AND AGREED</p> <p>2 that the signature to and the reading of the</p> <p>3 deposition by the witness is waived, the</p> <p>4 deposition to have the same force and effect</p> <p>5 as if full compliance had been had with all</p> <p>6 laws and rules of Court relating to the</p> <p>7 taking of depositions.</p> <p>8</p> <p>9 IT IS FURTHER STIPULATED AND AGREED</p> <p>10 that it shall not be necessary for any</p> <p>11 objections to be made by counsel to any</p> <p>12 questions except as to form or leading</p> <p>13 questions, and that counsel for the parties</p> <p>14 may make objections and assign grounds at the</p> <p>15 time of the trial, or at the time said</p> <p>16 deposition is offered in evidence, or prior</p> <p>17 thereto.</p> <p>18</p> <p>19 IT IS FURTHER STIPULATED AND AGREED</p> <p>20 that the notice of filing of the deposition</p> <p>21 by the Commissioner is waived.</p> <p>22</p> <p>23</p>
<p style="text-align: right;">Page 2</p> <p>1 In accordance with Rule 5(d) of The</p> <p>2 Alabama Rules of Civil Procedure, as amended,</p> <p>3 effective May 15, 1988, I Beth C. Word, am</p> <p>4 hereby delivering to Mr. H. Gregory Harp the</p> <p>5 original transcript of the oral testimony</p> <p>6 taken on the 19th day of May 2016, along with</p> <p>7 exhibits.</p> <p>8</p> <p>9 Please be advised that this is the</p> <p>10 same and not retained by the Court Reporter,</p> <p>11 nor filed with the Court.</p> <p>12</p> <p>13</p> <p>14</p> <p>15 S T I P U L A T I O N S</p> <p>16 IT IS STIPULATED AND AGREED by and</p> <p>17 between the parties through their counsel,</p> <p>18 that the deposition of GEORGE MORRIS may be</p> <p>19 taken before Beth C. Word, Commissioner, at</p> <p>20 the Law Office of Clark Hall, 750 Forrest</p> <p>21 Avenue, Gadsden, Alabama, on the 19th day of</p> <p>22 May 2016.</p> <p>23</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4</p> <p>5 GREGORY HARP, LLC</p> <p>6 BY: Mr. H. Gregory Harp and</p> <p>7 Mr. Moses Stone</p> <p>8 ADDRESS: 459 Main Street</p> <p>9 Suite 101-266</p> <p>10 Trussville, Alabama 35173</p> <p>11 (205) 544-3132</p> <p>12</p> <p>13</p> <p>14 FOR THE DEFENDANT:</p> <p>15</p> <p>16 FORD, HOWARD & CORNETT, P.C.</p> <p>17 BY: Mr. H. Edward Howard</p> <p>18 ADDRESS: 140 South Ninth Street</p> <p>19 Gadsden, Alabama 35901</p> <p>20 (256) 546-5432</p> <p>21</p> <p>22</p> <p>23</p>

<p style="text-align: right;">Page 5</p> <p>1 STUBBS, SILLS & FRYE, P.C. 2 BY: Mr. C. David Stubbs 3 ADDRESS: 1724 South Quintard Avenue 4 Anniston, Alabama 36201 5 (256) 835-5050 6 7 8 F&B LAW FIRM, P.C. 9 BY: Ms. Allison B. Chandler 10 ADDRESS: 213 Greene Street 11 Huntsville, Alabama 35801 12 (256) 536-0095 13 14 15 16 17 18 19 20 21 22 23 INDEX</p>	<p style="text-align: right;">Page 7</p> <p>1 I, BETH C. WORD, a Court Reporter of 2 Gadsden, Alabama, acting as Commissioner, 3 certify that on this date, as provided by the 4 Alabama Rules of Civil Procedure and the 5 foregoing stipulation of counsel, there came 6 before me at the Law Office of Clark Hall, 7 750 Forrest Avenue, Gadsden, Alabama, 8 beginning at 2:30 p.m., GEORGE MORRIS, 9 witness in the above cause, for oral 10 examination, whereupon the following 11 proceedings were had: 12 13 THE COURT REPORTER: Usual 14 stipulations? 15 MR. HARP: Yes. 16 MS. CHANDLER: Yes. 17 MR. STUBBS: Yes. 18 MR. HOWARD: Yes. 19 20 GEORGE MORRIS, 21 being first duly sworn, was 22 examined and testified as follows: 23 EXAMINATION BY MR. HARP:</p>
<p style="text-align: right;">Page 6</p> <p>1 2 EXAMINATION BY: PAGE NUMBER: 3 Mr. Harp 8 4 5 6 7 EXHIBITS: 8 PX- 1 - Statement of Kimbrough 40 9 PX- 2 - Statement of Morris 42 10 PX- 3 - Statement of Gilliland 42 11 PX- 4 - Morris Use of Force Form 73 12 PX- 5 - Amended Complaint 110 13 PX- 6 - Taser Information 123 14 PX- 7 - Photo 127 15 PX- 8 - Photo 128 16 PX- 9 - Photo 128 17 PX-10 - Photo 129 18 PX-11 - Answers to Interrogatories 131 19 20 21 22 23</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. All right. Would you state your 2 full name for the record, please? 3 A. It's George Henry Morris, Junior. 4 Q. Okay. Mr. Morris, my name is Greg 5 Harp and I represent Michelle Helm and her 6 minor daughter, T.H., along with Moses Stone. 7 Have you ever given a deposition before? 8 A. Yes. 9 Q. And when did you give that 10 deposition? 11 A. It's been several years ago. I 12 worked for Gadsden police at the time. I 13 can't remember the year. It's probably been 14 ten years ago or more than ten years ago. 15 Maybe twelve, thirteen. 16 Q. Okay. Given the lapse of time, I'm 17 just going to go over a couple of ground 18 rules that we generally have in a deposition. 19 The first thing is, you're doing really great 20 about answering the questions out loud 21 because the court reporter has to take down 22 what we're saying. 23 She cannot take down head nods, so</p>

<p style="text-align: right;">Page 9</p> <p>1 if you would, just respond verbally. Anytime 2 you need to take a break, let me know and 3 we'll take a break. And if you don't 4 understand a question that I ask, please do 5 not answer the question. Just ask me to 6 rephrase it, and I will be happy to do that. 7 Okay? 8 A. Okay. 9 Q. Because if you answer that 10 question, then I'm going to assume that you 11 understood the question that I asked. 12 A. Okay. 13 Q. And you understand that you're 14 under oath here just like you would be if we 15 were inside a courtroom? 16 A. Yes. 17 Q. All right. You said that you gave 18 a deposition when you worked for the Gadsden 19 police. 20 A. Yes. 21 Q. Tell me what that case was about. 22 A. It was a case brought on by Jerry 23 Travis Yates. He accused myself and Scott</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. Okay. And did he take your 2 deposition? 3 A. No. He actually died in prison. 4 And I believe his mother picked up the 5 case. 6 Q. His estate picked up the case. 7 A. Yes. 8 Q. And then she probably hired an 9 attorney. 10 A. Yes. 11 Q. And then that attorney took your 12 deposition? 13 A. Yes. 14 Q. Do you recall the name of the 15 attorney that took your deposition? 16 A. No, I do not. It was actually at 17 Cliff Callis' office in Rainbow City. And 18 they were from Birmingham. 19 Q. Now, what was the outcome of that 20 case? 21 A. They settled with him. 22 Q. When you say they, do you mean -- 23 A. The City of Gadsden settled with</p>
<p style="text-align: right;">Page 10</p> <p>1 Farris and Clark Hopper of excessive force. 2 Q. And about what year was that? 3 A. I'm going to say '93 is when the 4 incident happened, but it went on for 5 years. 6 Q. Did he sue you around '94, '95, 7 somewhere around there? 8 A. Somewhere around there. 9 Q. And you said it went on for 10 years? 11 A. Yeah. I will be specific. It was 12 a domestic situation. He had left. We 13 arrested him. He fought. He claims we broke 14 his leg. We had a trial that went on for 15 three days in Etowah County court. 16 It was all misdemeanor charges. He 17 was convicted on everything. He actually 18 went to prison. And then he was acting as 19 his own attorney. So he was suing us from 20 prison. And, you know, he would send us 21 something every six months, and we would have 22 to respond to whatever he asked us and send 23 it back.</p>	<p style="text-align: right;">Page 12</p> <p>1 them. 2 Q. Did you settle? 3 A. No. 4 Q. Did you win at trial? 5 A. Yes. 6 Q. You won at trial. 7 A. Yes. 8 Q. So there was a trial? 9 A. As far as a civil case goes? 10 Q. Yes. 11 A. No. There wasn't a trial. Do I 12 need to be more specific here? 13 Q. Well, I just need to know whether 14 you had to pay any money. 15 A. I didn't have to pay any money. 16 They gave him ten thousand dollars to get rid 17 of them, the family. And that's what they 18 got. And they gave us a letter stating that 19 we did nothing wrong, but they weren't going 20 to keep pursuing this for years. And so they 21 paid him ten thousand dollars. 22 Q. Okay. So you did settle with him. 23 A. They settled, the City.</p>

<p style="text-align: right;">Page 13</p> <p>1 Q. So you don't consider that to be a 2 settlement on your behalf? 3 A. On my behalf. 4 MR. STUBBS: And for the record, he 5 may not have been the officer that -- 6 THE WITNESS: I was never accused 7 of excessive force. The other two officers 8 were. I was the arresting officer. 9 10 Q. So what were you sued for? 11 A. I was involved in the arrest, but I 12 never struck him. I never did anything other 13 than arrest him. 14 Q. Okay. Were you let out of the case 15 before they settled? 16 A. No. I was the arresting officer. 17 Q. And his name was Jerry Yates? 18 A. Jerry Travis Yates. 19 Q. Okay. Any other depositions that 20 you've given? 21 A. Yes, workers' comp. 22 Q. Workers' comp? 23 A. I forgot all about that one. I'm</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. Do you recall who represented you 2 in your workers' comp claim? 3 A. Thomas Davis. 4 Q. And were you given workers' comp as 5 a result of your injury? 6 A. Yes. 7 Q. Now, when did you work for the 8 Gadsden Police Department, what years? 9 A. 1992 to 2003. 10 Q. And prior to working for the 11 Gadsden Police Department, what job, if any, 12 did you have? 13 A. I actually worked at Ohatchee 14 Police Department. 15 Q. What years did you work at 16 Ohatchee? 17 A. November of '91 until June of '92. 18 Q. Have you worked for any other 19 police departments besides Ohatchee, Gadsden 20 and Rainbow City? 21 A. The Lincoln Police Department. 22 Q. When did you work for the Lincoln 23 Police Department?</p>
<p style="text-align: right;">Page 14</p> <p>1 sorry. 2 Q. That's okay. And I assume you had 3 a claim? 4 A. Yes. 5 Q. And where were you working when you 6 made -- 7 A. I was at Rainbow City. I actually 8 forgot about that one. I'm sorry. 9 Q. That's okay. So you had a workers' 10 comp claim. 11 A. Yes. 12 Q. And you were working for the 13 Rainbow City Police Department. 14 A. Yes, I was. 15 Q. What year was that? 16 A. 2011 was the incident. 17 Q. What was the injury? 18 A. I got T-boned in my police car. 19 Q. And as a result of that, you filed 20 a workers' comp claim? 21 A. Yes. 22 Q. And you had to give a deposition? 23 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. From 2003 until 2005. It might 2 have been 2006. I'm sorry. 3 Q. Okay. Any other departments that 4 you've worked for? 5 A. Rainbow City. 6 Q. Rainbow City. And that was in 2006 7 you started there? 8 A. 2007. 9 Q. 2007. What did you do between 2006 10 and 2007? 11 A. I actually took a break. 12 Q. What's the highest rank you held at 13 Ohatchee Police Department? 14 A. Just a patrolman. 15 Q. What's the highest rank you held at 16 the Gadsden Police Department? 17 A. Detective. 18 Q. Did you also work as a patrolman at 19 the Gadsden Police Department? 20 A. Yes. 21 Q. What's the highest rank you've held 22 at the Rainbow City Police Department? 23 A. Lieutenant.</p>

<p style="text-align: right;">Page 17</p> <p>1 Q. What's the highest rank you held at 2 the Lincoln Police Department? 3 A. Captain. 4 Q. Did you have any other ranks at the 5 Lincoln Police Department outside of 6 Captain? 7 A. Lieutenant. 8 Q. Lieutenant. And have you been a 9 patrolman in Rainbow City? 10 A. Yes. 11 Q. And then you became a Sergeant? 12 A. Yes, sir. 13 Q. And you became Lieutenant -- 14 A. Yes. 15 Q. -- this year? 16 A. Last year, December. 17 Q. December of last year? 18 A. Yes. 19 Q. How long did you work as a Sergeant 20 at Rainbow City? 21 A. I'm guessing six years. Five, six 22 years. 23 Q. So from about --</p>	<p style="text-align: right;">Page 19</p> <p>1 else? 2 A. No. 3 Q. Have you had any complaints lodged 4 against you at all at the Rainbow City Police 5 Department? 6 A. No, sir. 7 Q. Did you have to take an exam to 8 become a Lieutenant for the Rainbow City 9 Police Department? 10 A. No, sir. 11 Q. Did you have to take an exam to 12 become Sergeant at the Rainbow City Police 13 Department? 14 A. Yes. 15 Q. And is that the Sergeant's exam? 16 Is that what it's called? 17 A. Yes, sir. 18 Q. And you took that prior to 2010 or 19 in 2010? 20 A. It could have been 2009 maybe, 21 2010. I'm not sure. 22 Q. Who is your current immediate 23 supervisor at the Rainbow City Police</p>
<p style="text-align: right;">Page 18</p> <p>1 A. 2010 to 2015. 2 Q. Okay. And then from 2007 to 2010, 3 were you a patrolman? 4 A. Yes, sir. 5 Q. Okay. Did you ever have any 6 complaints against you while working at the 7 Ohatchee Police Department for excessive 8 force? 9 A. No. 10 Q. Did you ever have any complaints 11 against you while working at the Lincoln 12 Police Department for excessive force? 13 A. No. 14 Q. Did you ever have any complaints 15 against you outside of the one we talked 16 about for excessive force while working at 17 the Gadsden Police Department? 18 A. No. 19 Q. And is the Jerry Yates lawsuit the 20 only time you've been sued for excessive 21 force? 22 A. Yes. 23 Q. Have you been sued for anything</p>	<p style="text-align: right;">Page 20</p> <p>1 Department? 2 A. Chief Jonathan Horton. Can I go 3 back? 4 Q. Sure. 5 A. Deputy Chief, but he's acting Chief 6 right now. 7 Q. And how long has Deputy Chief 8 Horton been the acting Chief? 9 A. A month and a half. 10 Q. And who was the Chief prior to 11 Deputy Chief Horton? 12 A. Chief Greg Carroll. 13 Q. Did Greg Carroll retire? 14 A. Greg Carroll is on administrative 15 leave. 16 Q. Do you know why Greg Carroll is on 17 administrative leave? 18 A. No, sir. 19 Q. How were you made aware that Greg 20 Carroll was placed on administrative leave? 21 A. The officer that actually asked him 22 to go home and took his badge and gun told 23 me.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q. Who was that?</p> <p>2 A. Lieutenant Scott Holderfield.</p> <p>3 Q. Did he tell you why?</p> <p>4 A. No.</p> <p>5 Q. Have you testified in court</p> <p>6 before?</p> <p>7 A. Yes, sir.</p> <p>8 Q. When was that?</p> <p>9 A. In municipal court, probably a few</p> <p>10 months ago.</p> <p>11 Q. And that's because you've arrested</p> <p>12 someone and their trial date is coming up?</p> <p>13 A. It was contesting a speeding</p> <p>14 ticket.</p> <p>15 Q. Okay. What vehicle are you issued</p> <p>16 by the Rainbow City Police Department?</p> <p>17 A. It's a 2013 Dodge Charger.</p> <p>18 Q. Is that the vehicle that you were</p> <p>19 issued in 2015? Did you have that vehicle in</p> <p>20 2015?</p> <p>21 A. Yes.</p> <p>22 Q. Did you have that vehicle in</p> <p>23 January of 2015?</p>	<p style="text-align: right;">Page 23</p> <p>1 Greg Carroll -- at that time, he was the</p> <p>2 Chief of Police for Rainbow City, right?</p> <p>3 A. Yes.</p> <p>4 Q. He ordered you to work security at</p> <p>5 Center Stage.</p> <p>6 A. Yes.</p> <p>7 Q. But you were not paid overtime.</p> <p>8 A. No, sir.</p> <p>9 Q. But you were paid through Center</p> <p>10 Stage.</p> <p>11 A. Yes.</p> <p>12 Q. How were you paid, in cash or</p> <p>13 check?</p> <p>14 A. Cash.</p> <p>15 Q. Who paid you?</p> <p>16 A. Jeremy.</p> <p>17 Q. Who is Jeremy?</p> <p>18 A. I believe he was the concert</p> <p>19 promoter.</p> <p>20 Q. Did you report that cash that you</p> <p>21 were paid by Jeremy to Rainbow City?</p> <p>22 A. No, I did not.</p> <p>23 Q. Are you required to?</p>
<p style="text-align: right;">Page 22</p> <p>1 A. Yes.</p> <p>2 Q. Were you working security at Center</p> <p>3 Stage on January 16, 2015?</p> <p>4 A. Yes, I was.</p> <p>5 Q. Can you tell me how you came to be</p> <p>6 working security at Center Stage on January</p> <p>7 16, 2015?</p> <p>8 A. Chief Greg Carroll told me I would</p> <p>9 be working security.</p> <p>10 Q. When you say Chief Greg Carroll</p> <p>11 told you you would be working security, did</p> <p>12 he ask you to work security?</p> <p>13 A. He ordered me in my shift.</p> <p>14 Q. He ordered you to?</p> <p>15 A. Yes.</p> <p>16 Q. Tell me how that happened.</p> <p>17 A. He said they needed six officers.</p> <p>18 I would be there and my shift would be there.</p> <p>19 That was our off weekend.</p> <p>20 Q. Were you paid overtime?</p> <p>21 A. No. We were paid through Center</p> <p>22 Stage.</p> <p>23 Q. So your testimony is that Chief</p>	<p style="text-align: right;">Page 24</p> <p>1 A. I don't believe so.</p> <p>2 Q. Did you object to having to work a</p> <p>3 security detail on your off day?</p> <p>4 A. I did not raise a big stink about</p> <p>5 it. I knew they were short of officers. And</p> <p>6 basically, it wasn't like, I'm ordering you</p> <p>7 right now to be over there. It was like, we</p> <p>8 need you to work over there. I didn't want</p> <p>9 to, but I did. And my guys did too.</p> <p>10 Q. Did you feel like you had to</p> <p>11 because it was the Chief telling you?</p> <p>12 A. Yes.</p> <p>13 Q. How many guys were on your shift?</p> <p>14 A. Two other officers.</p> <p>15 Q. Who were they?</p> <p>16 A. Camp Yancey and Tim Kimbrough.</p> <p>17 Q. And is it true that on any given</p> <p>18 shift currently in Rainbow City, there is</p> <p>19 going to be three officers?</p> <p>20 A. Yes, sir, or usually two officers</p> <p>21 and a --</p> <p>22 Q. Shift supervisor, right?</p> <p>23 A. Yes, sir.</p>

<p style="text-align: right;">Page 25</p> <p>1 Q. And on the night of January 16, 2 2015, John Bryant was the shift supervisor, 3 correct? 4 A. Yes, sir. 5 Q. And do you know the names of the 6 two officers who were his officers? 7 A. Jamichael Bonner and Austin Garmon. 8 Q. Do you know who Gary Morgan is? 9 A. Yes, sir. 10 Q. Who is Gary Morgan? 11 A. He was an officer that used to work 12 for the Rainbow City Police Department. 13 Q. Do you know what shift Gary Morgan 14 worked? 15 A. I believe he worked day shift. And 16 I'm not sure, but Nick Gaskin, Sergeant 17 Gaskin may have been his supervisor at the 18 time. 19 Q. Nick Gaskin? 20 A. Gaskin, G-a-s-k-i-n. 21 Q. Is it possible that his supervisor 22 would have been Mr. Spurling? 23 A. Quite possibly.</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. A hundred and twenty-five 2 dollars? 3 A. Yes, sir. 4 Q. Now, had you worked security at 5 Center Stage before -- 6 A. Yes. 7 Q. -- prior to January 16, 2015? 8 A. Yes. 9 Q. Has it always been twenty-five 10 dollars an hour? 11 A. I can't remember. 12 Q. Have you been paid each time you 13 worked security at Center Stage? 14 A. Yes. 15 Q. How do you report that on your 16 taxes? 17 A. I didn't report it. 18 Q. Were you issued a Taser by the 19 Rainbow City Police Department? 20 A. Yes. 21 Q. When were you first issued a 22 Taser? 23 A. I'm thinking it was in 2007 when I</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. Okay. So you are at Center Stage. 2 When you got to Center Stage, how did you 3 know what area of Center Stage to work? 4 A. I believe Jeremy told the Chief 5 where he wanted people. And I actually took 6 the front upstairs overhang. 7 Q. Now, this Jeremy, does he work for 8 the City? 9 A. No, sir. 10 Q. Do you know why Jeremy was 11 instructing the Chief on where to put his 12 personnel? 13 A. I have no clue. 14 Q. Did you have any thoughts on 15 that? 16 A. No, sir. 17 Q. How much were you paid to work 18 security at Center Stage on the night of 19 January 16, 2015? 20 A. I believe it was twenty-five 21 dollars an hour cash. And we worked five 22 hours. So it was a hundred and twenty-five 23 dollars.</p>	<p style="text-align: right;">Page 28</p> <p>1 was hired. 2 Q. When you were issued the Taser in 3 2007, did you receive any type of classes on 4 the proper use of the Taser from Rainbow 5 City? 6 A. Yes. 7 Q. Who taught that class? 8 A. Captain Chase Jenkins. 9 Q. Chase Jenkins, is he employed with 10 the Rainbow City Police Department? 11 A. No, sir. 12 Q. Was he employed with the Rainbow 13 City Police Department in 2007? 14 A. Yes. 15 Q. Do you know why he is no longer 16 employed with the Rainbow City Police 17 Department? 18 A. He resigned from the police 19 department. 20 Q. Do you know why he resigned? 21 A. No, sir. 22 Q. Did he resign, or did he get 23 fired?</p>

<p style="text-align: right;">Page 29</p> <p>1 A. He resigned.</p> <p>2 Q. When is the last time you spoke to</p> <p>3 Chase Jenkins?</p> <p>4 A. Probably December of 2015.</p> <p>5 Q. December of 2015. Was that before</p> <p>6 or after he resigned from the police force?</p> <p>7 A. That was before.</p> <p>8 Q. Who is the current Captain at the</p> <p>9 Rainbow City Police Department?</p> <p>10 A. We do not have one.</p> <p>11 Q. So you don't have a Chief and you</p> <p>12 don't have a Captain?</p> <p>13 MR. STUBBS: Object to the form.</p> <p>14</p> <p>15 A. No, sir.</p> <p>16 Q. Is that right? You don't have a</p> <p>17 Chief?</p> <p>18 A. We have a Chief.</p> <p>19 Q. Well, you have an acting Chief.</p> <p>20 A. Well, acting Chief. Deputy Chief.</p> <p>21 Q. All right. So you don't have a</p> <p>22 Chief; is that right?</p> <p>23 MR. STUBBS: Object to the form.</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. There were no Lieutenants at that</p> <p>2 point?</p> <p>3 A. No, sir.</p> <p>4 Q. Was there a position available for</p> <p>5 Lieutenant within the Rainbow City Police</p> <p>6 Department?</p> <p>7 A. Yes.</p> <p>8 Q. And they were just unfilled?</p> <p>9 A. They were just unfilled.</p> <p>10 Q. How long had those positions been</p> <p>11 unfilled?</p> <p>12 A. Since I've been there.</p> <p>13 Q. Which was 2007, correct?</p> <p>14 A. Correct.</p> <p>15 Q. So since 2007, there have not been</p> <p>16 Lieutenants in the --</p> <p>17 A. No. Let me back this up. We did</p> <p>18 have a Lieutenant and a Captain. And when</p> <p>19 they retired, they never filled those</p> <p>20 positions. It's been a while since we've had</p> <p>21 Lieutenants. It was like all Sergeants, a</p> <p>22 Captain and a Chief.</p> <p>23 Q. Well, you had a Captain because</p>
<p style="text-align: right;">Page 30</p> <p>1</p> <p>2 Q. You can answer.</p> <p>3 A. We assume he's our Chief.</p> <p>4 Q. You assume he's your Chief.</p> <p>5 A. Yes, sir.</p> <p>6 Q. And you don't have a Captain,</p> <p>7 correct?</p> <p>8 A. No, sir.</p> <p>9 Q. How many Lieutenants do you have?</p> <p>10 A. There is two Lieutenants.</p> <p>11 Q. And you became a Lieutenant in</p> <p>12 December of 2015, right?</p> <p>13 A. Yes.</p> <p>14 Q. Who is the other Lieutenant?</p> <p>15 A. Lieutenant Scott Holderfield.</p> <p>16 Q. And how long has he been a</p> <p>17 Lieutenant?</p> <p>18 A. He got promoted the same day as me.</p> <p>19 Q. In 2015?</p> <p>20 A. Yes, sir.</p> <p>21 Q. So were you two replacing someone</p> <p>22 who had left the force?</p> <p>23 A. No, sir.</p>	<p style="text-align: right;">Page 32</p> <p>1 Jenkins didn't retire, he resigned.</p> <p>2 A. He resigned.</p> <p>3 Q. So Jenkins became Captain at some</p> <p>4 point, right?</p> <p>5 A. When he got promoted to Captain, we</p> <p>6 had a Chief and a Captain and all Sergeants.</p> <p>7 Q. All Sergeants.</p> <p>8 A. Yes, sir.</p> <p>9 Q. And you were a Sergeant at that</p> <p>10 time?</p> <p>11 A. Yes.</p> <p>12 Q. Holderfield was a Sergeant at that</p> <p>13 time?</p> <p>14 A. Yes.</p> <p>15 Q. Braswell was a Sergeant at that</p> <p>16 time?</p> <p>17 A. No.</p> <p>18 Q. No, he wasn't?</p> <p>19 A. No.</p> <p>20 Q. Is he a Sergeant now?</p> <p>21 A. Yes, he is.</p> <p>22 Q. Has everyone been promoted in the</p> <p>23 Rainbow City Police Department within the</p>

<p style="text-align: right;">Page 33</p> <p>1 last year?</p> <p>2 A. No.</p> <p>3 Q. Well, Gilliland has been promoted</p> <p>4 to Detective within the last year, right?</p> <p>5 A. I think he was a Detective prior to</p> <p>6 that.</p> <p>7 Q. Okay. Well, Yancey has been</p> <p>8 promoted within the last year.</p> <p>9 A. He's moved up to investigations.</p> <p>10 Q. And Yancey has only been on the</p> <p>11 police force for three years, right?</p> <p>12 A. Almost five, I believe.</p> <p>13 Q. All right. And you've been</p> <p>14 promoted within the last year.</p> <p>15 A. Yes.</p> <p>16 Q. And Holderfield has been promoted</p> <p>17 within the last year.</p> <p>18 A. Yes.</p> <p>19 Q. And this Deputy Chief, did he come</p> <p>20 from the outside?</p> <p>21 A. Yes.</p> <p>22 Q. So he came in fresh, right?</p> <p>23 A. Yes.</p>	<p style="text-align: right;">Page 35</p> <p>1 manual?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Where do you keep your SOP manual?</p> <p>4 A. It's in my desk at work.</p> <p>5 Q. At work?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Do you have issued to you the</p> <p>8 policy on the use of force for the Rainbow</p> <p>9 City Police Department?</p> <p>10 A. Yes.</p> <p>11 Q. And where is it kept?</p> <p>12 A. In the SOP manual.</p> <p>13 Q. In the SOP manual. So it's part of</p> <p>14 the manual.</p> <p>15 A. It's part of the manual.</p> <p>16 Q. When is the last time you reviewed</p> <p>17 the use of force policy for the Rainbow City</p> <p>18 Police Department?</p> <p>19 A. I'm going to say probably six</p> <p>20 months ago.</p> <p>21 Q. Six months ago?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And what led you to review the use</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. Have there been any meetings in the</p> <p>2 Rainbow City Police Department in which it</p> <p>3 was said, hey, we're about to revamp this</p> <p>4 police department?</p> <p>5 A. No, sir.</p> <p>6 Q. Has anyone talked about changing</p> <p>7 the culture within the Rainbow City Police</p> <p>8 Department to you?</p> <p>9 A. I don't understand the question.</p> <p>10 Q. Well, has anyone said that there</p> <p>11 are problems within the Rainbow City Police</p> <p>12 Department that we need to fix?</p> <p>13 A. To me?</p> <p>14 Q. Yes, sir.</p> <p>15 A. No, sir.</p> <p>16 Q. Has anyone said that in a meeting</p> <p>17 in which you attended?</p> <p>18 A. No, sir.</p> <p>19 Q. Have you heard from anyone else</p> <p>20 that they were told that there were problems</p> <p>21 within the Rainbow City Police Department?</p> <p>22 A. No, sir.</p> <p>23 Q. Do you have issued to you an SOP</p>	<p style="text-align: right;">Page 36</p> <p>1 of force policy six months ago?</p> <p>2 A. When my squad came in, my officers</p> <p>3 came in, we would read a policy.</p> <p>4 Q. You would read a policy?</p> <p>5 A. Out of the SOP.</p> <p>6 Q. Did you just pick a policy?</p> <p>7 A. It would just depend, whether it be</p> <p>8 pursuits -- and that was use of force. And</p> <p>9 we would go over it. And I would ask them</p> <p>10 questions about it and then explain our</p> <p>11 policy to them.</p> <p>12 Q. Is there a part of the use of force</p> <p>13 policy for Rainbow City that relates to the</p> <p>14 use of a Taser weapon?</p> <p>15 A. I don't know if it specifically</p> <p>16 says Taser or if it says -- I don't believe</p> <p>17 it specifically says Taser. I think it comes</p> <p>18 after verbal commands and soft empty hands.</p> <p>19 Q. What comes after verbal commands</p> <p>20 and soft empty hands?</p> <p>21 A. You can Taser somebody if they're</p> <p>22 not complying with your verbal commands.</p> <p>23 Q. But that comes after verbal</p>

<p style="text-align: right;">Page 37</p> <p>1 commands, right?</p> <p>2 A. Yes.</p> <p>3 Q. And that comes after soft empty</p> <p>4 hands, right?</p> <p>5 A. No, that's prior to. That falls</p> <p>6 right under soft empty hands.</p> <p>7 Q. So you can Taser someone before you</p> <p>8 use soft empty hands on them?</p> <p>9 A. Well, we call that soft empty</p> <p>10 hands, hard empty hands. Hard empty hands</p> <p>11 would be having a baton --</p> <p>12 Q. Or a Taser.</p> <p>13 A. I think it falls under soft. I</p> <p>14 don't have the policy in front of me, but I'm</p> <p>15 almost positive it falls under after verbal</p> <p>16 commands.</p> <p>17 Q. You're the police officer, so I</p> <p>18 just want to be sure I'm clear on this. Hard</p> <p>19 empty hands means -- what are you saying,</p> <p>20 hard empty hands?</p> <p>21 A. Striking somebody with a baton.</p> <p>22 Q. With a baton. All right. And then</p> <p>23 what's after that?</p>	<p style="text-align: right;">Page 39</p> <p>1 A. How did I Tase her?</p> <p>2 Q. Yes.</p> <p>3 A. There was people out in the</p> <p>4 entryway of Center Stage. I came up, and she</p> <p>5 was on the ground kicking officers,</p> <p>6 screaming, thrashing around. I gave her the</p> <p>7 command to stop it. You need to stop right</p> <p>8 now.</p> <p>9 I grabbed her leg, I believe, after</p> <p>10 she kicked one of my officers, Tim Kimbrough.</p> <p>11 She was bucking up, thrashing, trying to pull</p> <p>12 away. And I gave her a command that she</p> <p>13 needed to settle down or I was going to Tase</p> <p>14 her. And she told me to Tase me, mother</p> <p>15 fucker.</p> <p>16 Q. And did you comply?</p> <p>17 MR. STUBBS: Object to the form.</p> <p>18</p> <p>19 Q. You can answer.</p> <p>20 A. I dry stunned her for about two</p> <p>21 seconds, two to three seconds one time.</p> <p>22 Q. Are you aware that Officer Justin</p> <p>23 Gilliland -- was he present when you drive</p>
<p style="text-align: right;">Page 38</p> <p>1 A. Would be deadly force.</p> <p>2 Q. Okay. So you're saying you think</p> <p>3 the Taser comes before soft empty hands?</p> <p>4 A. No. The Taser falls under soft</p> <p>5 empty hands.</p> <p>6 Q. Oh, you're saying it falls under --</p> <p>7 A. It's part of soft empty hands.</p> <p>8 Q. Okay. I understand what you're</p> <p>9 saying now. Okay. So when you say not</p> <p>10 complying with commands, are you referring to</p> <p>11 suspects not complying with commands?</p> <p>12 A. Yes.</p> <p>13 Q. And you understand you've been sued</p> <p>14 in this case, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And you understand you've been sued</p> <p>17 by Michelle Helm on behalf of her minor</p> <p>18 daughter because you allegedly Tased T.H. two</p> <p>19 times at Center Stage on January 16, 2015.</p> <p>20 A. That's incorrect.</p> <p>21 Q. What's incorrect about that?</p> <p>22 A. I Tased her one time.</p> <p>23 Q. Well, tell me how that happened.</p>	<p style="text-align: right;">Page 40</p> <p>1 stunned her?</p> <p>2 A. Yes.</p> <p>3 Q. And you said you were holding her</p> <p>4 leg?</p> <p>5 A. When she kicked Officer Kimbrough,</p> <p>6 I grabbed her leg.</p> <p>7 Q. Have you read a statement from</p> <p>8 Officer Kimbrough?</p> <p>9 A. No, Sir.</p> <p>10 Q. I'm going to show you what I will</p> <p>11 mark as Plaintiff's Exhibit Number 1 to your</p> <p>12 deposition. And each time I do this, I will</p> <p>13 slide it across the table to show your</p> <p>14 Counsel.</p> <p>15</p> <p>16 (Plaintiff's Exhibit Number 1 was</p> <p>17 marked for identification and same is</p> <p>18 attached hereto.)</p> <p>19</p> <p>20 A. (Witness reviewing document.)</p> <p>21 Q. Did you have a chance to read</p> <p>22 that?</p> <p>23 A. Yes, I did.</p>

<p style="text-align: right;">Page 41</p> <p>1 Q. Okay. Do you know who Jimmy 2 Fazekas is?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Who is that?</p> <p>5 A. A former employee of the Rainbow 6 City Police Department.</p> <p>7 Q. What was his rank?</p> <p>8 A. Patrolman, I believe, or Detective.</p> <p>9 Q. Do you know?</p> <p>10 A. I'm not sure. I think he might 11 have been a Detective at that time.</p> <p>12 Q. Was he present when you drive 13 stunned T.H.? And when I say T.H., I'm 14 referring to the minor daughter of Michelle 15 Helm, the Plaintiff in this case.</p> <p>16 A. I honestly don't know.</p> <p>17 Q. Now, have you read the statement of 18 Justin Gilliland?</p> <p>19 A. No, Sir.</p> <p>20 Q. I'm going to show you what I will 21 mark as Plaintiff's Exhibit Number 2 to your 22 deposition, which is the statement of Justin 23 Gilliland concerning the events that occurred</p>	<p style="text-align: right;">Page 43</p> <p>1 first time you have seen a copy of that 2 statement?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And are there things in that 5 statement that you disagree with?</p> <p>6 A. Yes.</p> <p>7 Q. And what do you disagree with in 8 the statement?</p> <p>9 A. I disagree with the fact that he 10 said I Tased her twice.</p> <p>11 Q. I guess you're talking about on 12 page two when he says, I then witnessed 13 Sergeant Morris drive stun the female again.</p> <p>14 A. Yes.</p> <p>15 Q. So you think when he wrote this 16 statement, he was incorrect about that.</p> <p>17 A. Yes, he was.</p> <p>18 Q. And you never saw the statement so 19 you didn't have an opportunity to tell him, 20 hey, I think you got that wrong; is that 21 right?</p> <p>22 A. I would not have said that.</p> <p>23 Q. What would you have said?</p>
<p style="text-align: right;">Page 42</p> <p>1 on the night of January 16, 2015. 2</p> <p>3 (Plaintiff's Exhibit Number 2 was 4 marked for identification and same is 5 attached hereto.) 6</p> <p>7 A. (Witness reviewing document.)</p> <p>8 Q. Oh, let me have that back. That's 9 actually got a marking on it. I think I've 10 got another one here. Okay. I'm going to 11 show you an exhibit that was previously 12 marked in the deposition of Justin Gilliland. 13 And it was marked as Plaintiff's Exhibit 14 Number 3 in Justin Gilliland's deposition. 15</p> <p>16 (Plaintiff's Exhibit Number 3 was 17 marked for identification and same is 18 attached hereto.) 19</p> <p>20 A. (Witness reviewing document.)</p> <p>21 Q. Have you had a chance to read it?</p> <p>22 A. Yes.</p> <p>23 Q. So is it correct that today is the</p>	<p style="text-align: right;">Page 44</p> <p>1 A. We never talked about this. I 2 don't know what I would have said.</p> <p>3 Q. If I tell you that he testified 4 under oath today that he saw you Tase T.H., 5 the minor, twice, what do you say to that?</p> <p>6 A. He's misspoken. That's all I can 7 say.</p> <p>8 Q. So you think he was confused when 9 he wrote this statement back in January of 10 2015?</p> <p>11 MR. STUBBS: Object to the form. 12 MS. CHANDLER: Object to the form. 13</p> <p>14 Q. You can answer.</p> <p>15 A. I don't know if he was confused or 16 maybe he thought he saw something, but what 17 he saw was incorrect.</p> <p>18 Q. And according to when this was 19 dated, 1-22-15, that would be --</p> <p>20 A. A year and a half? A year and five 21 months maybe?</p> <p>22 Q. Well, I mean, 1-22-15 would be a 23 few days after the date of the incident,</p>

<p style="text-align: right;">Page 45</p> <p>1 right?</p> <p>2 A. Oh, yes.</p> <p>3 Q. So you believe that Detective</p> <p>4 Gilliland is wrong when he says that he</p> <p>5 witnessed you Tase T.H. twice.</p> <p>6 A. I know he's wrong.</p> <p>7 Q. You say you did it once.</p> <p>8 A. I did it once.</p> <p>9 Q. Was the Chief standing there</p> <p>10 telling you not to Tase her?</p> <p>11 A. No.</p> <p>12 Q. Was the Chief there at all?</p> <p>13 A. Yes.</p> <p>14 Q. Was Gilliland there?</p> <p>15 A. Yes.</p> <p>16 Q. Are you Sure?</p> <p>17 A. I'm positive.</p> <p>18 Q. Would it surprise you to learn that</p> <p>19 the Chief of Police testified yesterday that</p> <p>20 when he saw you Tase T.H., Gilliland wasn't</p> <p>21 there?</p> <p>22 MR. STUBBS: Object to the form.</p> <p>23</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. He was standing up?</p> <p>2 A. He was standing up.</p> <p>3 Q. Where were you?</p> <p>4 A. I was towards her left front leg.</p> <p>5 Q. Standing or kneeling?</p> <p>6 A. I was standing initially.</p> <p>7 Q. Initially. At some point, you</p> <p>8 kneeled?</p> <p>9 A. Yes.</p> <p>10 Q. When?</p> <p>11 A. When she was kicking Officer</p> <p>12 Kimbrough.</p> <p>13 Q. Was she kicking Officer Kimbrough?</p> <p>14 A. She did kick Officer Kimbrough.</p> <p>15 Q. Did he put that in his report that</p> <p>16 we marked?</p> <p>17 A. No, he didn't.</p> <p>18 Q. Are you sure she kicked Officer</p> <p>19 Kimbrough?</p> <p>20 A. To the best of my recollection, she</p> <p>21 did kick Officer Kimbrough.</p> <p>22 Q. But that's not saying you're sure.</p> <p>23 That's to the best of your recollection. My</p>
<p style="text-align: right;">Page 46</p> <p>1 A. Yes.</p> <p>2 Q. Would it surprise you to learn that</p> <p>3 when Gilliland testified today that he saw</p> <p>4 you Tase T.H. twice, the Chief wasn't there?</p> <p>5 MR. STUBBS: Object to the form.</p> <p>6 MS. CHANDLER: Object to the form.</p> <p>7</p> <p>8 A. Yes.</p> <p>9 Q. So you're saying that both</p> <p>10 Gilliland and Carroll were present when you</p> <p>11 drive stunned T.H.</p> <p>12 A. Yes. To the best of my</p> <p>13 recollection, he was there, Gilliland. The</p> <p>14 Chief was there, and Officer Kimbrough was</p> <p>15 there and a bunch of other people.</p> <p>16 Q. Were those people police officers?</p> <p>17 A. Fazekas was there for a moment.</p> <p>18 And then they had something going on outside.</p> <p>19 Q. Was Fazekas there when you drive</p> <p>20 stunned T.H.?</p> <p>21 A. I honestly don't know. Fazekas was</p> <p>22 not down on the ground trying to restrain</p> <p>23 her. He was above.</p>	<p style="text-align: right;">Page 48</p> <p>1 question is, are you sure she kicked Officer</p> <p>2 Kimbrough?</p> <p>3 A. I believe she did.</p> <p>4 Q. But he didn't put it in his report,</p> <p>5 did he?</p> <p>6 A. No, he didn't.</p> <p>7 Q. So when did you kneel?</p> <p>8 A. When I saw that, when she kicked</p> <p>9 him. And I told her she needed to settle</p> <p>10 down or I was going to Tase her.</p> <p>11 Q. How many times did you tell her to</p> <p>12 settle down?</p> <p>13 A. I can't honestly remember. It</p> <p>14 could have been once. It could have been</p> <p>15 three. I don't know.</p> <p>16 Q. Where were you just prior to coming</p> <p>17 up on T.H. on the ground?</p> <p>18 A. I was out in the crowd.</p> <p>19 Q. When you came up on T.H. out of the</p> <p>20 crowd, did they tell you that she was having</p> <p>21 seizures?</p> <p>22 A. No, sir.</p> <p>23 Q. Did you know that?</p>

<p style="text-align: right;">Page 49</p> <p>1 A. No.</p> <p>2 Q. Would you have Tased her if you had</p> <p>3 known that?</p> <p>4 A. Based on what I saw?</p> <p>5 Q. Yeah.</p> <p>6 A. Yes. I would have Tased her.</p> <p>7 Q. Okay. So your testimony is, you</p> <p>8 did not know she was having seizures. But</p> <p>9 based upon what you saw, even if you had</p> <p>10 known she was having seizures, you would have</p> <p>11 still Tased her?</p> <p>12 A. Based on what I know?</p> <p>13 Q. No. Based upon what you saw and</p> <p>14 then Tased her.</p> <p>15 A. What I saw, I saw an out of control</p> <p>16 female.</p> <p>17 Q. Do you know why she was out of</p> <p>18 control?</p> <p>19 A. I have no idea. She could have</p> <p>20 been under the influence of drugs, alcohol or</p> <p>21 both.</p> <p>22 Q. But she wasn't.</p> <p>23 MR. STUBBS: Object to the form.</p>	<p style="text-align: right;">Page 51</p> <p>1 A. Unfortunately, police officers, we</p> <p>2 make split second decisions. And I stand by</p> <p>3 my decision to dry stun her.</p> <p>4 Q. What about the second time you dry</p> <p>5 stunned her?</p> <p>6 A. I didn't dry stun her a second</p> <p>7 time.</p> <p>8 Q. According to Detective Gilliland,</p> <p>9 you did.</p> <p>10 MR. STUBBS: Object to the form.</p> <p>11</p> <p>12 A. He's misspoken.</p> <p>13 Q. Did he misspeak under oath today if</p> <p>14 he said that?</p> <p>15 A. He must have.</p> <p>16 Q. What is your relationship like with</p> <p>17 Detective Gilliland?</p> <p>18 A. He's a friend of mine.</p> <p>19 Q. Have you discussed the incident at</p> <p>20 Center Stage at all?</p> <p>21 A. No, sir.</p> <p>22 Q. So you're telling me he's a friend</p> <p>23 of yours, but you haven't discussed this with</p>
<p style="text-align: right;">Page 50</p> <p>1</p> <p>2 A. I don't know.</p> <p>3 Q. And you didn't know what was wrong</p> <p>4 with her, right?</p> <p>5 A. I'm not a doctor.</p> <p>6 Q. You just pulled out your Taser and</p> <p>7 drive stunned her; is that right?</p> <p>8 MR. STUBBS: Object to the form.</p> <p>9</p> <p>10 A. It didn't happen like that.</p> <p>11 Q. Well, did you pull out your Taser?</p> <p>12 A. I did pull out my Taser.</p> <p>13 Q. Did you drive stun her?</p> <p>14 A. I warned her to settle down and</p> <p>15 quit fighting, spitting and biting.</p> <p>16 Q. Okay. You just pulled out your</p> <p>17 Taser and warned her you would Tase her --</p> <p>18 A. Yes.</p> <p>19 Q. -- and then Tased her.</p> <p>20 A. Yes, I did.</p> <p>21 Q. Without finding out -- did you ever</p> <p>22 ask, why are you guys holding her down, what</p> <p>23 did she do?</p>	<p style="text-align: right;">Page 52</p> <p>1 Detective Gilliland at all.</p> <p>2 A. This is not -- until right now --</p> <p>3 it's important right now, but as far as all</p> <p>4 the other stuff going on, we still have jobs</p> <p>5 to do. And this is a long time ago that this</p> <p>6 happened.</p> <p>7 Q. Well, I mean after it happened. I</p> <p>8 don't mean are you still discussing it today.</p> <p>9 I mean --</p> <p>10 A. Well, after it happened, there was</p> <p>11 so many things going on that night, I don't</p> <p>12 think we even discussed her. We put numerous</p> <p>13 people in jail. It was going on all around</p> <p>14 us.</p> <p>15 Q. You put four people in jail.</p> <p>16 A. Was it four?</p> <p>17 Q. It was.</p> <p>18 A. I thought it was more.</p> <p>19 Q. Okay. So the answer to my question</p> <p>20 is, no, you haven't discussed it with</p> <p>21 Detective Gilliland.</p> <p>22 A. No, sir.</p> <p>23 Q. Let me show you what we marked as</p>

<p style="text-align: right;">Page 53</p> <p>1 Plaintiff's Exhibit Number 2 to your 2 deposition. And Exhibit 3 is going to be the 3 exhibit from Detective Gilliland's deposition 4 today. And I will ask you if you recognize 5 that document. 6 A. (Witness reviewing document.) It's 7 my statement. 8 Q. And when did you write that 9 statement? 10 A. On January 21st of 2015 at 11 2:00 o'clock. 12 Q. Why did you write this statement? 13 A. I was told to write a statement. 14 Q. Who told you to write a 15 statement? 16 A. I believe it was Chief Greg 17 Carroll, or it could have been Captain Chase 18 Jenkins. It was one or the other. I'm not 19 sure. 20 Q. Did you write a statement about any 21 of the arrests you made on January 16, 22 2015? 23 A. I didn't make any arrests.</p>	<p style="text-align: right;">Page 55</p> <p>1 A. It was either him or the Chief. 2 Q. Well, I will represent to you that 3 the Chief said he hasn't asked anybody to 4 write a statement. So could it have been 5 Chase Jenkins? 6 MR. STUBBS: Object to the form. 7 8 A. I can't answer that. 9 Q. So you don't remember who asked you 10 to write a statement. 11 A. I can't remember. No, sir. 12 Q. After you wrote the statement, who 13 did you give it to? 14 A. Chase Jenkins. 15 Q. Okay. You gave the original to 16 Chase Jenkins? 17 A. Yes. 18 Q. Now, the second full paragraph, you 19 write, Helms appeared to be having some type 20 of a seizure, and several officers were 21 holding her arms and legs to keep her from 22 flopping around on the ground and possibly 23 hurting herself. Is that your handwriting?</p>
<p style="text-align: right;">Page 54</p> <p>1 Q. Did you break up any fights? 2 A. Yes. 3 Q. Did you write a statement about 4 that? 5 A. We didn't arrest anybody. 6 Q. Did you arrest T.H.? 7 A. No. 8 Q. So why did you write a statement 9 about T.H.? 10 A. I was told to. 11 Q. Did you ask why? 12 A. I assume this was coming, or 13 somebody knew that it was coming. 14 Q. You assumed you were going to get 15 sued? 16 A. We were going to get sued. 17 Q. Why would you assume you were going 18 to get sued? 19 A. They were asking me to write a 20 statement, so something was coming out of it. 21 I'm not sure. 22 Q. And you said this was Chase Jenkins 23 that asked you to do this?</p>	<p style="text-align: right;">Page 56</p> <p>1 A. Yes. 2 Q. Did you write that? 3 A. Yes. 4 Q. So earlier when you testified she 5 could have been on drugs or something, that's 6 not what you thought on January 21st, 2015, 7 is it? 8 A. It doesn't appear to be. 9 Q. It appears that you thought she was 10 having a seizure that night, doesn't it? 11 A. She was having something wrong with 12 her. I put that she was possibly having a 13 seizure. 14 Q. Okay. And you put that the 15 officers were holding her arms and legs to 16 keep her from flopping around on the ground, 17 right? 18 A. Yes. 19 Q. Were officers holding her arms? 20 A. I believe so, yes. 21 Q. Were officers holding her legs? 22 A. Appears to be, yes. 23 Q. And why were they holding her arms</p>

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1 and legs according to what you wrote?

2 A. To keep her from flopping around on

3 the ground and possibly hurting herself.

4 Q. Okay. I want you to turn to the

5 second page. No. Actually, I want to go

6 back. In parentheses on the seventh line,

7 you have, open paren, T■■■■ H■■■■, close

8 paren. Do you see that? Seven lines down,

9 middle of the page.

10 A. Yes.

11 Q. How did you know the name of the

12 person you Tased on January 21st, 2015?

13 A. I was told that was her name.

14 Q. Who told you that?

15 A. Maybe Sergeant Bryant, John

16 Bryant.

17 Q. Well, was Sergeant Bryant there

18 when you Tased her?

19 A. No.

20 Q. Then how did it come up between you

21 and Sergeant Bryant that the person you Tased

22 was named T■■■■ H■■■■?

23 A. He had told me he had had calls on

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1 them before. I had never dealt with them

2 before in my life, the family, but they had,

3 the other officers had. And he was familiar

4 with her.

5 Q. But why was it a subject of

6 conversation is what I'm asking? You

7 indicated earlier that there was so much

8 going on that you guys didn't really talk

9 about it.

10 A. Well, we didn't talk that night.

11 Q. Well, when did you talk?

12 A. We talked after the fact, probably

13 Monday.

14 Q. Monday. That would have been the

15 19th.

16 A. Or it could have been this day. I

17 just can't remember. You know, he's a friend

18 of mine. I speak to him.

19 Q. Who?

20 A. John Bryant.

21 Q. So what were you guys talking about

22 that related --

23 A. We were just talking about what a

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1 crazy time that was out there.

2 Q. Well, how did T■■■■ H■■■■ come up?

3 A. He told me she was a juvenile. I

4 didn't know she was a juvenile at the time

5 and I had argued the fact.

6 Q. Why did he tell you she was a

7 juvenile?

8 MR. STUBBS: Object to the form.

9

10 A. Because I said we should have put

11 her in jail that night. She should have went

12 to jail. And he said she's a juvenile. She

13 couldn't have gone to jail.

14 Q. After he told you she was a

15 juvenile, did you feel bad about Tasing her?

16 A. No.

17 Q. Do you feel bad today about Tasing

18 her?

19 A. No.

20 Q. Okay. Turn with me to the second

21 page of your statement. Do you see where it

22 says the woman was told to get back and

23 refused to do so and the officer grabbed the

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1 woman who was hysterical and had to forcibly

2 remove her. At this time, T■■■■ H■■■■ came

3 out of her seizure and started trying to

4 attack officers who were trying to help her.

5 Do you see that?

6 A. Yes, I do.

7 Q. So there you say she is coming out

8 of a seizure, correct?

9 A. I did.

10 Q. And when you wrote that, is that

11 what you believed?

12 A. No.

13 Q. So you wrote a lie?

14 A. It wasn't a lie, but I mean, she

15 appeared to be having a seizure, but I think

16 she was faking the seizure.

17 Q. Well, how much experience do you

18 have with people faking seizures?

19 A. I've seen people have seizures.

20 Q. Have you seen people faking them?

21 A. No.

22 Q. Then how would you know the

23 difference?

<p style="text-align: right;">Page 61</p> <p>1 A. Well, her actions -- her actions 2 that night. Anybody else I've seen have 3 seizures, they come out of the seizure 4 confused, dazed, lethargic, drained. She 5 didn't. She came out fighting, cussing, 6 ready to kill. 7 Q. So that's why you think she was 8 faking. 9 A. Yes. 10 Q. Did she try to kill you? 11 A. No. She didn't try to kill me, but 12 she probably would have if she could have. 13 Q. Did she ever lay a hand on you? 14 A. No. 15 Q. Did you ever feel threatened by 16 her? 17 A. No. 18 Q. But you Tased her. 19 A. Yes. 20 Q. And according to Detective 21 Gilliland, you Tased her twice. 22 A. He misspoke. 23 Q. Well, he didn't misspeak. He was</p>	<p style="text-align: right;">Page 63</p> <p>1 A. Sure. 2 Q. But those would be the marks that a 3 Taser would make, right? 4 A. I can't honestly say if that's them 5 or not because there is not a scale here to 6 tell me how far the prongs were. 7 Q. Well, we'll have it scaled up by 8 trial. We can revisit it then. 9 A. Okay. 10 Q. But your testimony is that when you 11 are Tased, it leaves two little red marks. 12 A. Yes. 13 Q. And it's more visible on a 14 Caucasian than it would be on an African 15 American obviously. 16 A. Yes. 17 Q. Where did you Tase T.H.? 18 A. In the abdomen right here. 19 Q. Where are those marks? 20 A. Right here. 21 Q. Is that the same indication that 22 you made when I asked you where you Tased 23 her?</p>
<p style="text-align: right;">Page 62</p> <p>1 pretty clear on what he said. 2 MR. STUBBS: Object to the form. 3 4 A. We can solve this real quick. 5 Q. Well, let's do that. How can we 6 solve it? 7 A. There is signature marks that a 8 Taser makes when you drive stun somebody. 9 Q. Absolutely. 10 A. If there is four of them, then I 11 Tased her twice. If there is two of them, I 12 Tased her once. 13 Q. Okay. Let's see if we can solve 14 this. What do those marks look like, by the 15 way? 16 A. Little red, maybe possibly like a 17 mosquito bite. 18 Q. Does it look something like that? 19 A. It looks like two red marks. 20 Q. I see four. You see two? 21 A. I see two. 22 Q. I see four. I guess it's up for a 23 jury to determine.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. Yes. 2 Q. All right. Thank you. Let's go 3 back to your statement. Now, in your 4 statement, you say she appeared to be coming 5 out of a seizure, but you think that she was 6 faking that, but you wrote it anyway, right? 7 Is that right? 8 A. Yes. 9 Q. Did you write in your statement, 10 but I think she was faking? 11 A. No, I did not. 12 Q. Did you tell John Bryant you 13 thought she was faking? 14 A. I can't remember if I told him. I 15 may have told the Chief. 16 Q. Well, if I represent to you that 17 the Chief says he hasn't spoken to you about 18 this, does that help your recollection? 19 A. I think it may have been that night 20 with the way she was acting when she came out 21 of it. I may have said, you know, she's 22 faking, best actress I've ever seen. I may 23 have said something like that.</p>

<p style="text-align: right;">Page 65</p> <p>1 Q. Were you wearing a body camera that</p> <p>2 night?</p> <p>3 A. Yes.</p> <p>4 Q. Was it recording?</p> <p>5 A. Yes.</p> <p>6 Q. Have you seen the footage from that</p> <p>7 body camera?</p> <p>8 A. No, I haven't.</p> <p>9 Q. Have you looked at the footage</p> <p>10 online?</p> <p>11 A. No, sir.</p> <p>12 Q. Are you familiar with evidence dot</p> <p>13 com?</p> <p>14 A. Yes.</p> <p>15 Q. Are you an administrator for</p> <p>16 evidence dot com?</p> <p>17 A. Yes.</p> <p>18 Q. Have you logged on to look at that</p> <p>19 footage?</p> <p>20 A. No.</p> <p>21 Q. Have you asked anyone to pull that</p> <p>22 footage?</p> <p>23 A. No. Oh, wait. Can I back up?</p>	<p style="text-align: right;">Page 67</p> <p>1 it. They just said they didn't have it.</p> <p>2 MR. HARP: Ed, you actually</p> <p>3 produced it to me. Do you know where the</p> <p>4 original use of force statement is that he</p> <p>5 did?</p> <p>6 MR. HOWARD: You mean a different</p> <p>7 one from 1-21-15?</p> <p>8 MR. HARP: Yes, sir.</p> <p>9 MR. HOWARD: No. This is the only</p> <p>10 one I have.</p> <p>11 MR. HARP: Did you know that there</p> <p>12 was one?</p> <p>13 MR. HOWARD: No, not until George</p> <p>14 just said there was one I did or couldn't</p> <p>15 find or something like that. But no, to my</p> <p>16 knowledge, there is one statement from George</p> <p>17 Morris that has been given to me.</p> <p>18 MR. HARP: To your knowledge, but</p> <p>19 he says there is two statements because you</p> <p>20 did an original statement.</p> <p>21</p> <p>22 Q. When did you do that statement?</p> <p>23 A. I believe it was at the time I did</p>
<p style="text-align: right;">Page 66</p> <p>1 Q. Yes.</p> <p>2 A. I asked Detective Gilliland to pull</p> <p>3 the footage, which I never watched the</p> <p>4 footage. Just to give me the date and the</p> <p>5 time.</p> <p>6 Q. Why did you do that?</p> <p>7 A. Because the use of force statement</p> <p>8 that I wrote that Monday following this</p> <p>9 incident, they couldn't find it. They didn't</p> <p>10 have it.</p> <p>11 Q. Let me stop you right there because</p> <p>12 I've got a use of force statement from you.</p> <p>13 Is there another use of force statement?</p> <p>14 A. There was an original.</p> <p>15 Q. Where is that use of force</p> <p>16 statement?</p> <p>17 A. I have no idea.</p> <p>18 Q. Who did you give it to?</p> <p>19 A. Captain Chase Jenkins, along with</p> <p>20 my statement.</p> <p>21 Q. And when you asked for it again,</p> <p>22 they couldn't find it?</p> <p>23 A. Well, I don't know what happened to</p>	<p style="text-align: right;">Page 68</p> <p>1 the statement here.</p> <p>2 Q. On 1-21?</p> <p>3 A. Yes.</p> <p>4 Q. I'm sorry. Your use of force</p> <p>5 statement was sent to me by email yesterday.</p> <p>6 Bear with me just one second.</p> <p>7 A. Okay.</p> <p>8 Q. Now, you think you did the original</p> <p>9 use of force statement on 1-21?</p> <p>10 A. It might have been that Monday when</p> <p>11 I came back to work. I'm not sure.</p> <p>12 Q. Would that have been the 19th?</p> <p>13 A. Possibly.</p> <p>14 Q. No, it would have been the 18th.</p> <p>15 So Tuesday would have been the 19th. Could</p> <p>16 it have been on Tuesday?</p> <p>17 A. It could have been.</p> <p>18 MR. HOWARD: I think the 19th was</p> <p>19 Monday?</p> <p>20 MR. HARP: The 19th was Monday?</p> <p>21 MR. HOWARD: Well, one of these</p> <p>22 statements says Friday night, January 16.</p> <p>23 MR. HARP: You're right. That's</p>

<p style="text-align: right;">Page 69</p> <p>1 right. Thank you.</p> <p>2</p> <p>3 Q. Who was your immediate supervisor</p> <p>4 the night of the concert?</p> <p>5 A. Chase Jenkins.</p> <p>6 Q. But he wasn't present, right?</p> <p>7 A. No, sir.</p> <p>8 Q. And you didn't have a shift</p> <p>9 supervisor because you were a Sergeant,</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. Now, I've got a use of force form</p> <p>13 that was completed on 1-16 -- no, I'm sorry.</p> <p>14 That's the date of the incident. On</p> <p>15 1-19-2015. Now, that's the one that was</p> <p>16 given to us, but you're saying there is</p> <p>17 another use of force form that they couldn't</p> <p>18 find?</p> <p>19 A. The original. The original use of</p> <p>20 force form, I'm not sure who called or they</p> <p>21 made a note. I want to say it was Ed Howard.</p> <p>22 They couldn't find the original. It was</p> <p>23 misplaced. And I asked the Chief if I could</p>	<p style="text-align: right;">Page 71</p> <p>1 MR. HARP: What you sent to me is</p> <p>2 dated 1-19. The Chief signed this on</p> <p>3 1-19-2015, but he said he did one recently in</p> <p>4 response to a request from you for a use of</p> <p>5 force form, which means there should be one</p> <p>6 dated 2016, correct?</p> <p>7 THE WITNESS: I guess, yes.</p> <p>8</p> <p>9 Q. Well, I mean, the Chief could not</p> <p>10 have read a statement from you that you did</p> <p>11 in the last two or three months back in 2015,</p> <p>12 not to get into the laws of physics or time</p> <p>13 travel or the space time continuum, but there</p> <p>14 is no way the Chief signed a document last</p> <p>15 year that you did last month.</p> <p>16 A. Yes.</p> <p>17 Q. So where is the use of force form</p> <p>18 that you did last month?</p> <p>19 A. I gave it to our clerk.</p> <p>20 Q. And that is --</p> <p>21 A. Vicki Robinson.</p> <p>22 Q. Vicki Robinson. And you gave that</p> <p>23 form to her in response to a request --</p>
<p style="text-align: right;">Page 70</p> <p>1 do another one.</p> <p>2 Q. And did you do it?</p> <p>3 A. Yes.</p> <p>4 Q. When? That would have been</p> <p>5 recently, right?</p> <p>6 A. Recently.</p> <p>7 Q. Where is that form?</p> <p>8 A. I don't know.</p> <p>9 MR. HARP: Ed, what I have is the</p> <p>10 original --</p> <p>11 MR. HOWARD: I'll tell you exactly</p> <p>12 what happened. In looking through documents,</p> <p>13 I realized that there was one use of force</p> <p>14 form from Gary Morgan. And one of the</p> <p>15 reasons I was delayed in giving you documents</p> <p>16 was because that was one of the things I</p> <p>17 wanted to double check because there should</p> <p>18 have been another one.</p> <p>19 So I called the clerk at Rainbow</p> <p>20 City and said I'm looking for this. It seems</p> <p>21 like there ought to be one. And then what I</p> <p>22 sent to you got sent over to me. So I don't</p> <p>23 know what date is on --</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Yes.</p> <p>2 Q. -- from an attorney.</p> <p>3 A. Yes.</p> <p>4 Q. Or from someone.</p> <p>5 A. From someone.</p> <p>6 Q. And who made the request to you?</p> <p>7 Was it Chief Carroll?</p> <p>8 A. No. I believe I had a note from an</p> <p>9 attorney.</p> <p>10 MR. HOWARD: Well, a note from</p> <p>11 Vicki.</p> <p>12 THE WITNESS: From where you called</p> <p>13 and said where was the use of force. And I</p> <p>14 said, well, I don't know. I don't know what</p> <p>15 happened to it. Captain Chase Jenkins had it</p> <p>16 in his box.</p> <p>17</p> <p>18 Q. Who signed off on that use of force</p> <p>19 form?</p> <p>20 A. The original or the second one?</p> <p>21 Q. The second one.</p> <p>22 A. Chief Greg Carroll did. I don't</p> <p>23 know who signed off on the original. I</p>

<p style="text-align: right;">Page 73</p> <p>1 filled it out and put it in the box. 2 MR. HARP: Well, the original I've 3 got, but I'm going to have to print another 4 copy unless one of you guys have a copy of 5 it. 6 MR. HOWARD: I've got one sitting 7 on my desk, but I don't think I have one 8 right here in front of me. 9 MR. HARP: I've got it. I'll get 10 her to print it out. Let's take a break. 11 12 (Whereupon, a brief recess was 13 taken.) 14 15 Q. Okay. We're back on the record. 16 And I'm going to show you what I will mark as 17 Plaintiff's Exhibit Number 4 to your 18 deposition. And I'll ask you if you've ever 19 seen that document before. 20 21 (Plaintiff's Exhibit Number 4 was 22 marked for identification and same is 23 attached hereto.)</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. What is the date out there? 2 A. It's 1-19-15. 3 Q. Now, is this the first use of force 4 form or the second use of force form? 5 A. To be honest with you, I'm not sure 6 if this is the first one or the second one. 7 Q. In any event, there is two. 8 A. There is two. I did another one 9 because I couldn't find the original. 10 Captain Jenkins, any use of force you turned 11 in to him. And when this was going on, he 12 had been resigned from the police department. 13 And they cleaned out his office. 14 Q. Not on 1-19-2015. 15 A. No, sir. This is after the fact. 16 And I had asked if it would be okay if I just 17 did another one. 18 Q. So this has to be the first one. 19 A. I don't know if this is the first 20 one or the second one. 21 Q. Well, who do you have as the 22 immediate supervisor? 23 A. Chase Jenkins. At that time, he</p>
<p style="text-align: right;">Page 74</p> <p>1 2 A. (Witness reviewing document.) Yes, 3 I have. 4 Q. When is the first time you have 5 seen a copy of this document? 6 A. I saw it when I did the original, 7 Monday the 19th. 8 Q. So this is the original use of 9 force form? 10 A. No, sir. This is another one that 11 I made because they couldn't find the other 12 one. What happened is, somebody called and 13 said they couldn't find the original. 14 Q. But that happened this year, 15 right? 16 A. Yes. 17 Q. And then you did another use of 18 force form. 19 A. Yes. I did this one. 20 Q. Turn with me to the second page of 21 this document. Do you see that signature by 22 Greg Carroll? 23 A. Yes.</p>	<p style="text-align: right;">Page 76</p> <p>1 was, at that time. 2 Q. Did you write his name on the 3 second one you did? 4 A. Yes. 5 Q. So you tried to recreate the first 6 one. 7 A. I tried to recreate the first one 8 with the second one. I wasn't trying to be 9 sneaky or anything. They just couldn't find 10 it. 11 Q. So this could be the second one or 12 it could be the first one. 13 A. Yes, sir. I'm not sure. 14 Q. But if it's the second one and 15 Chief Carroll has put a date that's not 16 correct; is that right? 17 A. If it's the second one, correct. 18 Q. Because he's backdated it to the 19 19th of 2015 in January; is that right? 20 A. Yes. 21 Q. If it's the second one. 22 A. If it is. 23 Q. Now, if this is the first one, then</p>

<p style="text-align: right;">Page 77</p> <p>1 that date may be correct; is that right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. All right. Now, whichever one this</p> <p>4 is, is that your handwriting on the form?</p> <p>5 A. Yes, it is.</p> <p>6 Q. Do you see where it says Taser,</p> <p>7 firearm, model type, the first page?</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell me why you didn't fill</p> <p>10 that in?</p> <p>11 A. Oversight. I don't know why. I</p> <p>12 really don't.</p> <p>13 Q. Where you have Taser, firearm</p> <p>14 serial number, you put X-26 there.</p> <p>15 A. X-26 Taser.</p> <p>16 Q. Is that the serial number?</p> <p>17 A. No, sir, it isn't.</p> <p>18 Q. That's the model number, correct?</p> <p>19 A. Yes, it is.</p> <p>20 Q. So that's actually what should</p> <p>21 appear in Taser, firearm model and type.</p> <p>22 A. That's correct.</p> <p>23 Q. Did anyone review this document to</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. Is that a crime?</p> <p>2 A. Yes.</p> <p>3 Q. So you believe she had committed a</p> <p>4 crime.</p> <p>5 A. Yes.</p> <p>6 Q. Was she arrested?</p> <p>7 A. No, she wasn't.</p> <p>8 Q. Was she charged?</p> <p>9 A. No, she was not.</p> <p>10 Q. Was she ever handcuffed?</p> <p>11 A. I don't believe so.</p> <p>12 Q. She committed a crime in front of</p> <p>13 police officers, but she was never</p> <p>14 handcuffed, charged or arrested.</p> <p>15 A. Correct.</p> <p>16 Q. But she was Tasered.</p> <p>17 A. She was.</p> <p>18 Q. On the back page, on page two, do</p> <p>19 you see where it says, describe any other</p> <p>20 means attempted to control the suspect or</p> <p>21 subjects. Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. You said, subjects, plural, and I</p>
<p style="text-align: right;">Page 78</p> <p>1 say, hey, you have to correct that?</p> <p>2 A. No, sir.</p> <p>3 Q. Well, you see on the back where it</p> <p>4 says reviewed by police Chief. Do you know</p> <p>5 whether or not he actually reviewed it?</p> <p>6 A. I honestly can't speak for him. I</p> <p>7 don't know.</p> <p>8 Q. All right. Let's go to the bottom</p> <p>9 of page one.</p> <p>10 A. Okay.</p> <p>11 Q. It says name of suspect, T [REDACTED]</p> <p>12 Helm. Is that your handwriting?</p> <p>13 A. Yes.</p> <p>14 Q. Why was she a suspect?</p> <p>15 A. Because she was Tasered.</p> <p>16 Q. So she became a suspect after she</p> <p>17 was Tasered?</p> <p>18 A. Because she was the one that was</p> <p>19 Tasered, she was put down as a suspect.</p> <p>20 Q. Okay. But she had not committed a</p> <p>21 crime at the time she was Tasered, right?</p> <p>22 A. She had committed a crime. She was</p> <p>23 disorderly.</p>	<p style="text-align: right;">Page 80</p> <p>1 think you meant subject, right?</p> <p>2 A. Subject.</p> <p>3 Q. Arms and legs were physically held</p> <p>4 down.</p> <p>5 A. That's correct.</p> <p>6 Q. Was that during the Tasing?</p> <p>7 A. Yes.</p> <p>8 Q. So at the time that you Tased T [REDACTED]</p> <p>9 Helm, according to you one time, her arms and</p> <p>10 legs were physically held down.</p> <p>11 A. Yes.</p> <p>12 Q. Did someone have her head?</p> <p>13 A. I can't recall.</p> <p>14 Q. Do you recall Detective Gilliland</p> <p>15 holding her head?</p> <p>16 A. I recall him up at the front</p> <p>17 towards her head. I don't know if he had her</p> <p>18 shoulders, arms or whatnot. She was bucking</p> <p>19 around, thrashing, trying to kick.</p> <p>20 Q. She wasn't kicking or thrashing,</p> <p>21 was she, because her arms and legs were</p> <p>22 physically held down?</p> <p>23 A. She was still bucking up, her body,</p>

<p style="text-align: right;">Page 81</p> <p>1 shaking her head.</p> <p>2 Q. Could she have been seizing?</p> <p>3 A. Not at that time, she wasn't.</p> <p>4 Q. How do you know?</p> <p>5 A. Based on all the curse words and</p> <p>6 the acknowledging us coming out of her mouth.</p> <p>7 Q. That's all you're basing it on?</p> <p>8 A. Based on her actions. It didn't</p> <p>9 appear to be anybody seizing. It appeared to</p> <p>10 be somebody fighting and wanting to fight.</p> <p>11 Q. Okay. Up above that, were</p> <p>12 controls, holds employed, yes, no. If yes,</p> <p>13 what type of holds were used. And you didn't</p> <p>14 circle yes or no, but you put, officers held</p> <p>15 suspect by arms and legs. Do you see that?</p> <p>16 A. I see it, yes. Yes, I do.</p> <p>17 Q. All right. Up above that, describe</p> <p>18 the suspect's demeanor after force was used</p> <p>19 or displayed. The suspect was out of</p> <p>20 control. She was screaming, fighting and had</p> <p>21 to be held down forcibly to keep her from</p> <p>22 hitting officers. Is that what you wrote?</p> <p>23 A. I did.</p>	<p style="text-align: right;">Page 83</p> <p>1 A. Yes, I have.</p> <p>2 Q. You've heard of suspects being</p> <p>3 arrested in the hospital, and as soon as</p> <p>4 they're better, they're transported to the</p> <p>5 Etowah County Detention Center.</p> <p>6 A. That's correct.</p> <p>7 Q. Why didn't that happen to T.H.?</p> <p>8 A. That's an oversight. I have no</p> <p>9 idea why that didn't happen.</p> <p>10 Q. Well, you were a Sergeant there, so</p> <p>11 whose oversight was it?</p> <p>12 A. I guess it was mine.</p> <p>13 Q. So you feel like she should have</p> <p>14 been arrested on top of everything else.</p> <p>15 A. Yes, sir.</p> <p>16 Q. Even after you Tased her --</p> <p>17 A. Yes.</p> <p>18 Q. -- according to you, once,</p> <p>19 according to Detective Gilliland twice, you</p> <p>20 feel like she should have been thrown in</p> <p>21 jail.</p> <p>22 A. She should have been.</p> <p>23 Q. Even though she was a juvenile.</p>
<p style="text-align: right;">Page 82</p> <p>1 Q. But she was actually held down</p> <p>2 before she was Tased, right?</p> <p>3 A. Yes.</p> <p>4 Q. And she was being held down while</p> <p>5 you Tased her, right?</p> <p>6 A. Yes.</p> <p>7 Q. Was Taser or force used against the</p> <p>8 suspect satisfactorily stop the suspect's</p> <p>9 aggressions, and you put no.</p> <p>10 A. No.</p> <p>11 Q. Well, what stopped it?</p> <p>12 A. It had no effect on her.</p> <p>13 Q. No, no. I said, what stopped her</p> <p>14 alleged aggression if you Tasered her?</p> <p>15 A. She continued. She continued when</p> <p>16 the medics got there. It was ongoing,</p> <p>17 non-stop.</p> <p>18 Q. But did you ever arrest her?</p> <p>19 A. No. She had to go to the</p> <p>20 hospital.</p> <p>21 Q. Well, you've heard of suspects</p> <p>22 being arrested in the hospital, haven't</p> <p>23 you?</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Even though she was a juvenile.</p> <p>2 Q. Do you have any remorse at all</p> <p>3 about what you did?</p> <p>4 A. No, sir. No.</p> <p>5 Q. Do you have kids?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Would you ever what your child</p> <p>8 laying on the ground being held down and</p> <p>9 Tased?</p> <p>10 A. Yes, if he acted like that. If he</p> <p>11 acted like that like she was acting, Tase</p> <p>12 him. If he ever acted like that, I would</p> <p>13 Tase him, like she was acting that night,</p> <p>14 yes.</p> <p>15 Q. You would Tase your own son?</p> <p>16 A. I sure would if he acted like this</p> <p>17 young lady did, no doubt.</p> <p>18 Q. How old is your son?</p> <p>19 A. He's nineteen.</p> <p>20 Q. Would you Tase him when he was</p> <p>21 seventeen if he acted like that?</p> <p>22 A. You're dang right.</p> <p>23 Q. Would you Tase him when he was</p>

<p style="text-align: right;">Page 85</p> <p>1 fifteen if he acted like that?</p> <p>2 A. If he acted like that, yeah.</p> <p>3 Q. Would you Tase him if he was ten</p> <p>4 and he acted like that?</p> <p>5 A. No, no. There is a --</p> <p>6 Q. So is the cutoff at about twelve or</p> <p>7 thirteen?</p> <p>8 MR. STUBBS: Object to the form.</p> <p>9</p> <p>10 A. You know, even a fifteen year old</p> <p>11 can hurt you.</p> <p>12 Q. Well, did she hurt anybody that</p> <p>13 night?</p> <p>14 A. She didn't hurt anybody because we</p> <p>15 didn't let her hurt anybody.</p> <p>16 Q. Did she hurt anybody that night?</p> <p>17 A. No.</p> <p>18 Q. You said we didn't let her hurt</p> <p>19 anybody. You were the only one Tasing,</p> <p>20 right?</p> <p>21 A. I'm the only one that Tased her.</p> <p>22 Q. So what did the other officers do</p> <p>23 to prevent --</p>	<p style="text-align: right;">Page 87</p> <p>1 your client knowing what happened?</p> <p>2 MS. CHANDLER: I'm objecting to you</p> <p>3 testifying as opposed to asking him</p> <p>4 questions.</p> <p>5 MR. HARP: I'm not testifying. I'm</p> <p>6 telling him what Detective Gilliland says,</p> <p>7 which is in his statement.</p> <p>8 MS. CHANDLER: All I'm objecting to</p> <p>9 is statements made and that aren't questions</p> <p>10 to the witness.</p> <p>11 MR. HARP: Okay. He's not your</p> <p>12 witness.</p> <p>13 THE WITNESS: She was even acting</p> <p>14 out when I came back. The medics had to put</p> <p>15 a mask over her to keep her from spitting on</p> <p>16 them and biting them. So she never stopped</p> <p>17 her aggression from what I could see.</p> <p>18 Now, when I went back out in the</p> <p>19 crowd, did she stop, I don't know. I'm going</p> <p>20 to assume she didn't because when I came</p> <p>21 back, she was still acting out.</p> <p>22</p> <p>23 Q. Go back with me to your written</p>
<p style="text-align: right;">Page 86</p> <p>1 A. They had to forcibly hold her</p> <p>2 down.</p> <p>3 Q. So if the Taser didn't have any</p> <p>4 effect on her, according to your use of force</p> <p>5 form --</p> <p>6 A. Yes.</p> <p>7 Q. -- but the other officers held her</p> <p>8 down, is that what stopped the alleged</p> <p>9 aggression?</p> <p>10 A. Counselor --</p> <p>11 Q. Mr. Morris.</p> <p>12 A. -- after I Tased her, they had</p> <p>13 another fight. I went back out into the</p> <p>14 crowd to assist them.</p> <p>15 Q. And you understand, Detective</p> <p>16 Gilliland says that's not what happened.</p> <p>17 MR. STUBBS: Object to the form.</p> <p>18</p> <p>19 A. That's fine. I know what happened.</p> <p>20 Q. Well, he apparently does too.</p> <p>21 MR. STUBBS: Object to the form.</p> <p>22 MS. CHANDLER: Object to the form.</p> <p>23 MR. HARP: So you're objecting to</p>	<p style="text-align: right;">Page 88</p> <p>1 statement here.</p> <p>2 A. Okay.</p> <p>3 Q. At what point did your body camera</p> <p>4 start recording?</p> <p>5 A. Right before I Tased her.</p> <p>6 Q. Right before you Tased her.</p> <p>7 A. Yes. I came up when all this was</p> <p>8 going on, and I hit my button twice. But I</p> <p>9 wasn't letting it go the whole time, my</p> <p>10 camera.</p> <p>11 Q. And you were not on shift that</p> <p>12 night.</p> <p>13 A. No, sir.</p> <p>14 Q. And you didn't come back to work</p> <p>15 until Monday.</p> <p>16 A. Yes.</p> <p>17 Q. So what happened to your body</p> <p>18 camera from that night until Monday?</p> <p>19 A. It probably sat on my dresser at</p> <p>20 home.</p> <p>21 Q. And at some point, did you take</p> <p>22 your body camera into the police station and</p> <p>23 download the video?</p>

<p style="text-align: right;">Page 89</p> <p>1 A. Yes. Or upload the video.</p> <p>2 Q. Upload the video.</p> <p>3 A. Yes.</p> <p>4 Q. And how did you do that?</p> <p>5 A. There is a docking station in the</p> <p>6 squad room. And we just put them in there.</p> <p>7 And it takes, I don't know, thirty, forty</p> <p>8 minutes to download them.</p> <p>9 Q. Was there anything else on your</p> <p>10 body camera from the night of January 16,</p> <p>11 2015 besides when you started recording right</p> <p>12 before you Tased her?</p> <p>13 A. I'm not sure.</p> <p>14 Q. Well, did you use it that night?</p> <p>15 A. I did, but I'm not sure. I never</p> <p>16 reviewed the video.</p> <p>17 Q. Well, did you use it when you went</p> <p>18 to break up the fight?</p> <p>19 A. I really can't remember.</p> <p>20 MR. HARP: Ed, do you know where</p> <p>21 his footage is? He said he turned it on</p> <p>22 right before he Tased her. We don't have</p> <p>23 that footage.</p>	<p style="text-align: right;">Page 91</p> <p>1 or anything. I don't know how to get on</p> <p>2 it.</p> <p>3 Q. Well, now, that's not what Justin</p> <p>4 Gilliland -- well, I'm not going to run the</p> <p>5 risk of drawing an objection as to</p> <p>6 testifying, but are you sure you've never</p> <p>7 been on evidence dot com?</p> <p>8 A. I've been on it after he let me on</p> <p>9 it. And he pulled videos that I had to</p> <p>10 review that were possible complaints against</p> <p>11 officers. And he pulled them up for me and</p> <p>12 saved them on my computer.</p> <p>13 Q. Did you ask him to make you an</p> <p>14 administrator?</p> <p>15 A. Yes.</p> <p>16 Q. Did he do that?</p> <p>17 A. Yes.</p> <p>18 Q. Did he give you a password at that</p> <p>19 time?</p> <p>20 A. No.</p> <p>21 Q. Well, what good is being an</p> <p>22 administrator if you don't have a password?</p> <p>23 A. Well, I'm supposed to have a</p>
<p style="text-align: right;">Page 90</p> <p>1 MR. HOWARD: I am uncertain that we</p> <p>2 have it also. What I know is what Justin</p> <p>3 Gilliland testified to today. That's all I</p> <p>4 know.</p> <p>5 MR. HARP: He says he downloaded</p> <p>6 all the footage. But he just testified that</p> <p>7 he had --</p> <p>8 MR. HOWARD: I know, but what I</p> <p>9 know is what Gilliland testified to today.</p> <p>10 That's my source of information. I don't</p> <p>11 have any magic --</p> <p>12 MR. HARP: I hear you. I hear you.</p> <p>13 MR. HOWARD: They don't let me near</p> <p>14 the computer system.</p> <p>15</p> <p>16 Q. If you wanted to get your footage</p> <p>17 from the night of January 16, 2015, what</p> <p>18 would you do?</p> <p>19 A. I would have to call Justin</p> <p>20 Gilliland and have him log on to that</p> <p>21 evidence dot com.</p> <p>22 Q. Well, you're an administrator.</p> <p>23 A. They don't have a password for me</p>	<p style="text-align: right;">Page 92</p> <p>1 password, but nobody knows what it is, and</p> <p>2 I'm not sure what it was. I don't know what</p> <p>3 it is.</p> <p>4 Q. How would you find out?</p> <p>5 A. I don't know. It's an imperfect</p> <p>6 system. I cannot go on there and watch a</p> <p>7 video without Justin getting me on there and</p> <p>8 pulling the video up for me and saving that</p> <p>9 and go back and review it. And I've done</p> <p>10 that twice, I believe, since I became an</p> <p>11 administrator.</p> <p>12 Q. What were the purposes of you doing</p> <p>13 it when you did do it?</p> <p>14 A. Complaints on officers.</p> <p>15 Q. When your Taser needs recharging,</p> <p>16 how do you recharge it?</p> <p>17 A. You put batteries in it.</p> <p>18 Q. Do you ever hook your Taser up to a</p> <p>19 USB port?</p> <p>20 A. No, sir.</p> <p>21 Q. Have you ever downloaded data from</p> <p>22 your Taser?</p> <p>23 A. No, sir.</p>

<p style="text-align: right;">Page 93</p> <p>1 Q. Were you ever shown how to do 2 that?</p> <p>3 A. The Taser I have, it doesn't have a 4 camera.</p> <p>5 Q. No, data. Not video, data.</p> <p>6 A. Oh, data. If I was, I can't 7 remember. It's been a while.</p> <p>8 Q. Were you aware that you could do 9 that?</p> <p>10 A. Actually, no.</p> <p>11 Q. You were not taught in training 12 that you could actually hook that Taser up 13 and find out when it was fired and how long 14 the duration of the charge was?</p> <p>15 A. No, sir.</p> <p>16 Q. And the Taser that you have now was 17 the same Taser that you had in January of 18 2015; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Has it been altered in any way?</p> <p>21 A. No, sir.</p> <p>22 Q. Has it been dropped or damaged in 23 any way?</p>	<p style="text-align: right;">Page 95</p> <p>1 Q. And you may have said it again?</p> <p>2 A. I may have, or you need to settle 3 down or I'm going to Tase you.</p> <p>4 Q. Okay. And then what happened?</p> <p>5 A. And I took the Taser, deployed it 6 for two to three seconds.</p> <p>7 Q. Was the Taser already in your 8 hand?</p> <p>9 A. I don't believe so. I can't 10 remember.</p> <p>11 Q. Let's go back to page two of your 12 report. I'm a little over halfway down. 13 Based on Ms. Helm's out of control behavior, 14 I took my Taser out and removed the cartridge 15 and told her several times to calm down and 16 comply with the officers command or I would 17 dry stun her with my Taser. She told me, 18 Tase me, mother fucker, at which time, I dry 19 stunned her for approximately three seconds 20 in the abdomen area; is that right?</p> <p>21 A. That's correct.</p> <p>22 Q. So in your statement that you wrote 23 on 1-21-2015, you say that you told her</p>
<p style="text-align: right;">Page 94</p> <p>1 A. No, sir.</p> <p>2 Q. And you wear it on your duty 3 belt?</p> <p>4 A. Yes.</p> <p>5 Q. And you wear it in a Taser 6 holster?</p> <p>7 A. Yes.</p> <p>8 Q. How many times did you warn Ti [REDACTED] 9 Helm, or T.H., that you would Tase her before 10 you Tased her?</p> <p>11 A. To be honest with you, I can't 12 remember. I know I warned her once and it 13 could have been a couple times. I told her 14 she needed to settle down or she would be 15 Tased.</p> <p>16 Q. Do you recall the exact words that 17 you used?</p> <p>18 A. Young lady, you better settle down 19 or I'm going to Tase you.</p> <p>20 Q. You said that to her?</p> <p>21 A. Yes.</p> <p>22 Q. You said young lady?</p> <p>23 A. I'm almost positive I did.</p>	<p style="text-align: right;">Page 96</p> <p>1 several times she needed to calm down; is 2 that right?</p> <p>3 A. Yes.</p> <p>4 Q. So this was not a split second 5 decision you made to Tase her, was it?</p> <p>6 A. No, sir.</p> <p>7 Q. I mean, it was deliberate because 8 you said if you don't calm down, I'm going to 9 Tase you, right?</p> <p>10 MR. STUBBS: Object to the form.</p> <p>11</p> <p>12 Q. Is that right?</p> <p>13 A. That's correct.</p> <p>14 Q. So this is not something where all 15 of a sudden, an event happened and you 16 thought I've got to Tase her. You gave her a 17 chance to calm down before you Tased her.</p> <p>18 A. Yes.</p> <p>19 Q. Were you there when the officers 20 took Ms. Helm, or T.H., out of the lobby of 21 Center Stage?</p> <p>22 A. No, sir.</p> <p>23 Q. You had left?</p>

<p style="text-align: right;">Page 97</p> <p>1 A. When are you talking about?</p> <p>2 Q. You had left the area when the</p> <p>3 paramedics took her to the ambulance?</p> <p>4 A. I was out there later when they</p> <p>5 were actually treating her.</p> <p>6 Q. Right. Were you there when they</p> <p>7 took her away to the hospital?</p> <p>8 A. I just can't remember.</p> <p>9 Q. Now, at the time that you Tased</p> <p>10 T.H., was your hand on her at that point?</p> <p>11 A. I don't believe so.</p> <p>12 Q. So you were just holding the Taser</p> <p>13 to her abdomen area?</p> <p>14 A. Yes.</p> <p>15 MR. STUBBS: Object to the form.</p> <p>16</p> <p>17 Q. And then in order to employ the</p> <p>18 Taser, is there a trigger that you have to</p> <p>19 squeeze?</p> <p>20 A. Yes.</p> <p>21 Q. So you squeezed that trigger?</p> <p>22 A. Yes.</p> <p>23 Q. And you did it for about three</p>	<p style="text-align: right;">Page 99</p> <p>1</p> <p>2 (Viewing video.)</p> <p>3</p> <p>4 A. It would have been on her left leg.</p> <p>5 Q. Her left leg?</p> <p>6 A. Yes.</p> <p>7 Q. Now, were you present when T.H. was</p> <p>8 gagged?</p> <p>9 A. No, sir.</p> <p>10 Q. Were you present when the officer</p> <p>11 told her that she would be gagged?</p> <p>12 A. I don't recall that.</p> <p>13 Q. So you had left at that point.</p> <p>14 A. Yes.</p> <p>15 Q. Was T.H. wearing shoes at the point</p> <p>16 you Tased her?</p> <p>17 A. I don't remember.</p> <p>18 Q. You don't remember?</p> <p>19 A. No.</p> <p>20 Q. Now, when you Tased her in the</p> <p>21 abdomen, were you already kneeling?</p> <p>22 A. I believe so. Yes, I believe I was</p> <p>23 kneeling.</p>
<p style="text-align: right;">Page 98</p> <p>1 seconds?</p> <p>2 A. Yes.</p> <p>3 Q. I'm going to show you a piece of</p> <p>4 video, and I need you to tell me whether or</p> <p>5 not to your recollection this was taken from</p> <p>6 the vantage point of your body camera.</p> <p>7</p> <p>8 (Viewing video.)</p> <p>9</p> <p>10 Q. Do you see that hand on that leg?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know whose hand that is?</p> <p>13 A. No, sir.</p> <p>14 Q. Okay. Were you ever holding T [REDACTED]</p> <p>15 where you were situated at that angle?</p> <p>16 A. Me?</p> <p>17 Q. Yes.</p> <p>18 A. No.</p> <p>19 Q. You testified earlier that at some</p> <p>20 point, you placed your hand on her. Where</p> <p>21 were you standing when you did that?</p> <p>22 A. Is that her right or left leg?</p> <p>23 Q. I'm not sure.</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. And did you turn on your body</p> <p>2 camera before you kneeled down?</p> <p>3 A. I can't remember.</p> <p>4 Q. But you are sure that you turned</p> <p>5 your body camera on before she was Tased.</p> <p>6 A. It was on. I just had to hit the</p> <p>7 button twice to make sure it was recording.</p> <p>8 I thought it was recording. I don't know,</p> <p>9 but it beeps. You know, it's a loud beep to</p> <p>10 let you know it's recording, but there was so</p> <p>11 much commotion and stuff, you can't hear</p> <p>12 anything.</p> <p>13 Q. Is there a visual clue to let you</p> <p>14 know it's recording?</p> <p>15 A. No, sir, not that I know of. It's</p> <p>16 flashing red, but where it's situated, it's</p> <p>17 kind of hard to -- it's not blinding you or</p> <p>18 anything.</p> <p>19 Q. Right. But it was kind of dark in</p> <p>20 that area, right?</p> <p>21 A. It was the foyer, so there was</p> <p>22 lights out there.</p> <p>23 Q. Were there civilians around when</p>

<p style="text-align: right;">Page 101</p> <p>1 all of this was happening on the 16th?</p> <p>2 A. There was a crowd out there.</p> <p>3 Q. Did anyone try to move the crowd</p> <p>4 back?</p> <p>5 A. I think several people were telling</p> <p>6 them to get back into the concert.</p> <p>7 Q. Several people or several officers?</p> <p>8 A. Several officers, or I don't know</p> <p>9 who was yelling it. I may have yelled it.</p> <p>10 Q. So if there was a crowd standing</p> <p>11 around watching, did you ever hear anyone</p> <p>12 say, don't do that, or you shouldn't Tase</p> <p>13 her?</p> <p>14 A. I don't recall. I don't</p> <p>15 remember.</p> <p>16 Q. Did Officer Kimbrough ever tell you</p> <p>17 when you told T.H. that if she didn't calm</p> <p>18 down, you were going to Tase her, did Officer</p> <p>19 Kimbrough tell you not to do that?</p> <p>20 A. No.</p> <p>21 Q. When you told T.H. to calm down or</p> <p>22 you were going to Tase her, did Detective</p> <p>23 Gilliland tell you not to do that?</p>	<p style="text-align: right;">Page 103</p> <p>1 Q. Did he take an active role in being</p> <p>2 the Chief of Police, or did he kind of defer</p> <p>3 to Captains and Lieutenants?</p> <p>4 A. I can't speculate on that.</p> <p>5 Q. I don't want you to speculate. I</p> <p>6 want you to tell me what you observed from</p> <p>7 working with him.</p> <p>8 A. Well, you've got to remember now,</p> <p>9 when this was all going on, I worked third</p> <p>10 shift, so I never saw him. I just recently</p> <p>11 when I got promoted went to day shift. So</p> <p>12 prior to that, I was a night shift guy. I</p> <p>13 worked 6:00 p.m. to 6:00 a.m. Nobody is</p> <p>14 there.</p> <p>15 Q. So who is in charge during that</p> <p>16 time?</p> <p>17 A. I am. I was.</p> <p>18 Q. So at night during the time you</p> <p>19 were a Sergeant, you would be the one in</p> <p>20 charge?</p> <p>21 A. Yes.</p> <p>22 Q. Because you had the seniority?</p> <p>23 A. Because I was in charge of the</p>
<p style="text-align: right;">Page 102</p> <p>1 A. No.</p> <p>2 Q. When you told T.H. that you were</p> <p>3 going to Tase her, before you Tased her, did</p> <p>4 Chief Carroll tell you not to Tase her?</p> <p>5 A. No.</p> <p>6 Q. Did Chief Carroll ever say anything</p> <p>7 to you during this entire incident?</p> <p>8 MR. STUBBS: Object to the form.</p> <p>9</p> <p>10 A. To me?</p> <p>11 Q. To you.</p> <p>12 A. While this was going on?</p> <p>13 Q. Yes. While you guys were around</p> <p>14 T.H. and she was being held down, did you</p> <p>15 have any conversation at all with Chief</p> <p>16 Carroll?</p> <p>17 A. I don't believe so.</p> <p>18 Q. During the time that he was Chief</p> <p>19 of Police, was he a very hands-on Chief?</p> <p>20 MR. HOWARD: Object to the form.</p> <p>21</p> <p>22 A. I don't understand what you mean by</p> <p>23 hands on.</p>	<p style="text-align: right;">Page 104</p> <p>1 shift. Whatever went on in the City from</p> <p>2 6:00 p.m. to 6:00 a.m., I was responsible</p> <p>3 for. Now, if something major happened, I</p> <p>4 would call the Chief or the Captain.</p> <p>5 Q. So on January 16, 2015, it was at</p> <p>6 night when this happened, right?</p> <p>7 A. Yes.</p> <p>8 Q. So who was in charge of the police</p> <p>9 officers in Rainbow City during that time?</p> <p>10 A. John Bryant.</p> <p>11 Q. Okay. But the Chief is the Chief</p> <p>12 twenty-four hours a day, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Are you APOST certified?</p> <p>15 A. Yes.</p> <p>16 Q. When did you get your APOST</p> <p>17 certification?</p> <p>18 A. May of 1992, I believe is when I</p> <p>19 graduated.</p> <p>20 Q. Do you have to do continuing</p> <p>21 education?</p> <p>22 A. Yes.</p> <p>23 Q. And how many hours?</p>

<p style="text-align: right;">Page 105</p> <p>1 A. Twelve hours a year.</p> <p>2 Q. And what did you do last year to</p> <p>3 accomplish those twelve hours?</p> <p>4 A. I'm trying to think. I went to</p> <p>5 Mobile for a training.</p> <p>6 Q. Did you receive any instruction on</p> <p>7 the use of Tasers at that training?</p> <p>8 A. I'm sure it had nothing to do with</p> <p>9 Tasers.</p> <p>10 Q. Was it an executive level</p> <p>11 training?</p> <p>12 A. I'm trying to think what that was.</p> <p>13 It was like street survival for cops, street</p> <p>14 survival school or training. And it was</p> <p>15 taught by a retired Chicago police officer.</p> <p>16 We go to different classes and schools to get</p> <p>17 CEUs. I probably did some training around</p> <p>18 City Hall. I'm not sure.</p> <p>19 Q. Training around City Hall?</p> <p>20 A. Well, they had somebody come in and</p> <p>21 teach a class and you get four hours or eight</p> <p>22 hours.</p> <p>23 Q. When is the last time you received</p>	<p style="text-align: right;">Page 107</p> <p>1 Q. As a Rainbow City police officer,</p> <p>2 have you encountered juveniles?</p> <p>3 A. Yes.</p> <p>4 Q. Outside of T.H.?</p> <p>5 A. Yes.</p> <p>6 Q. Have you had to arrest juveniles?</p> <p>7 A. Yes.</p> <p>8 Q. What did you rely upon as policy</p> <p>9 when you had to arrest those juveniles?</p> <p>10 A. Based on what they were doing,</p> <p>11 determine whether we would call somebody from</p> <p>12 juvenile probation and possibly put them in</p> <p>13 Coosa Valley Detention in Anniston. If it's</p> <p>14 a minor infraction, we call the parents and</p> <p>15 take them to City Hall and do a juvenile</p> <p>16 release form.</p> <p>17 Q. Have you ever interrogated a</p> <p>18 juvenile?</p> <p>19 A. Yes.</p> <p>20 Q. What is the Rainbow City policy on</p> <p>21 interrogating juvenile suspects?</p> <p>22 A. Before you interrogate a juvenile,</p> <p>23 the parents must be present if they wish to</p>
<p style="text-align: right;">Page 106</p> <p>1 any training on the use of a Taser?</p> <p>2 A. It would have been when I was</p> <p>3 issued one.</p> <p>4 Q. And when was that?</p> <p>5 A. 2007.</p> <p>6 Q. So from 2007 up until today,</p> <p>7 you have not received any training on the use</p> <p>8 of Tasers.</p> <p>9 A. Not to my knowledge.</p> <p>10 Q. All right. If you would, walk me</p> <p>11 through the levels of force that a police</p> <p>12 officer would employ or could employ to</p> <p>13 resolve a situation, starting from the least</p> <p>14 harmful all the way up to deadly force.</p> <p>15 A. The officer's presence would be the</p> <p>16 first one. And then verbal commands. And</p> <p>17 then soft empty, hard. And I believe deadly</p> <p>18 force is there right after that. I may be</p> <p>19 wrong.</p> <p>20 Q. Does the Rainbow City Police</p> <p>21 Department have a policy dealing with</p> <p>22 juvenile suspects? A written policy.</p> <p>23 A. Not to my knowledge.</p>	<p style="text-align: right;">Page 108</p> <p>1 have their parents there. That's actually in</p> <p>2 the rights waiver, if they wish their parents</p> <p>3 to be there. And also, obviously, right to</p> <p>4 an attorney.</p> <p>5 Q. Did you see Michelle Helm being</p> <p>6 Tased on the night of January 16, 2015?</p> <p>7 A. No, sir.</p> <p>8 Q. Did you see Michelle Helm be</p> <p>9 handcuffed on the night of January 16,</p> <p>10 2015?</p> <p>11 A. No, sir.</p> <p>12 Q. Do you know who the woman was that</p> <p>13 you wrote in your statement was told to get</p> <p>14 back and refused to do so?</p> <p>15 A. I believe it was T.H.'s mother,</p> <p>16 Michelle Helm.</p> <p>17 Q. And then officer grabbed the woman</p> <p>18 who was hysterical and had to forcibly remove</p> <p>19 her. Is that the same person you're talking</p> <p>20 about?</p> <p>21 A. Yes.</p> <p>22 Q. And you didn't see her being Tased</p> <p>23 at that time, right?</p>

<p style="text-align: right;">Page 109</p> <p>1 A. No, sir.</p> <p>2 Q. Do you know what officer removed</p> <p>3 her?</p> <p>4 A. I thought it was Jimmy Fazekas or</p> <p>5 Gary Morgan maybe.</p> <p>6 Q. Could it have been Justin</p> <p>7 Gilliland?</p> <p>8 A. I don't remember him doing that. I</p> <p>9 remember him holding the juvenile, but I</p> <p>10 don't remember him going out to take the</p> <p>11 mother.</p> <p>12 Q. You don't?</p> <p>13 A. No.</p> <p>14 Q. So you're not saying it wasn't him.</p> <p>15 You're just saying you don't remember it.</p> <p>16 A. I don't remember that, no.</p> <p>17 Q. Okay. I'm going to show you what I</p> <p>18 will mark as Plaintiff's Exhibit Number 5 to</p> <p>19 your deposition, which is the first amended</p> <p>20 complaint that was filed September 10th,</p> <p>21 2015.</p> <p>22</p> <p>23 (Plaintiff's Exhibit Number 5 was</p>	<p style="text-align: right;">Page 111</p> <p>1 complaint. Do you know what an answer is?</p> <p>2 A. No, sir.</p> <p>3 Q. Okay. Let me just make sure I have</p> <p>4 something correct. At some point on the</p> <p>5 night of January 16, 2015, you, yourself was</p> <p>6 holding T.H. down or was assisting in holding</p> <p>7 her down.</p> <p>8 A. I believe so.</p> <p>9 Q. Do you recall T.H. ever saying let</p> <p>10 me go?</p> <p>11 A. Yes.</p> <p>12 Q. At the time that T.H. said let me</p> <p>13 go, had T.H. committed any crime in your</p> <p>14 mind?</p> <p>15 A. Yes.</p> <p>16 Q. What's that crime?</p> <p>17 A. Disorderly conduct.</p> <p>18 Q. Was she ever arrested for that?</p> <p>19 A. No, she wasn't.</p> <p>20 Q. Was she ever charged with that?</p> <p>21 A. No, she wasn't.</p> <p>22 Q. And she was never handcuffed.</p> <p>23 A. No, sir.</p>
<p style="text-align: right;">Page 110</p> <p>1 marked for identification and same is</p> <p>2 attached hereto.)</p> <p>3</p> <p>4 A. (Witness reviewing document.)</p> <p>5 Q. And just let me know when you're</p> <p>6 ready.</p> <p>7 A. I'm ready.</p> <p>8 Q. Have you ever seen a copy of that</p> <p>9 document that we marked as Plaintiff's</p> <p>10 Exhibit Number 5 before today?</p> <p>11 A. Yes.</p> <p>12 Q. When did you first see a copy of</p> <p>13 that document?</p> <p>14 A. I can't remember the date. It's</p> <p>15 been several months ago.</p> <p>16 Q. But you understand that's the</p> <p>17 amended complaint that was filed in this</p> <p>18 case, right?</p> <p>19 A. Yes.</p> <p>20 Q. And you filed an answer to that</p> <p>21 amended complaint; is that right?</p> <p>22 A. Excuse me?</p> <p>23 Q. You filed an answer to that amended</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Why didn't you handcuff her?</p> <p>2 A. Because we were waiting for the</p> <p>3 medics to come treat her.</p> <p>4 Q. Okay. Why didn't you handcuff her</p> <p>5 after the medics treated her?</p> <p>6 A. Oversight. She should have been</p> <p>7 handcuffed.</p> <p>8 Q. Well, why wasn't she arrested?</p> <p>9 A. Another oversight on our parts.</p> <p>10 Q. On whose part?</p> <p>11 A. My part.</p> <p>12 Q. Anyone else's part? Chief Carroll</p> <p>13 was there, right?</p> <p>14 A. Yes.</p> <p>15 Q. He didn't arrest her, did he?</p> <p>16 A. No, he didn't.</p> <p>17 Q. Justin Gilliland was there,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. He didn't arrest her, did he?</p> <p>21 A. She wasn't arrested.</p> <p>22 Q. Okay. And Kimbrough didn't arrest</p> <p>23 her because she wasn't arrested, right?</p>

<p style="text-align: right;">Page 113</p> <p>1 A. She wasn't arrested.</p> <p>2 Q. So you claim that she's committed</p> <p>3 this crime that you believe she should have</p> <p>4 been handcuffed and arrested for and Tased</p> <p>5 for, but no one else Tased her, right? Only</p> <p>6 you.</p> <p>7 MR. STUBBS: Object to the form.</p> <p>8</p> <p>9 Q. Is that right?</p> <p>10 A. Only me.</p> <p>11 Q. And no one arrested her, right?</p> <p>12 A. That's correct.</p> <p>13 Q. Now, when a person is being</p> <p>14 disorderly, do they have to be arrested at</p> <p>15 that time, or could they be arrested at a</p> <p>16 later date?</p> <p>17 A. Usually if you witness somebody</p> <p>18 being disorderly, you arrest them at that</p> <p>19 time, but you could actually get a warrant on</p> <p>20 someone.</p> <p>21 Q. Did you go get a warrant for T.H.?</p> <p>22 A. No, I did not.</p> <p>23 Q. Did any of the other officers who</p>	<p style="text-align: right;">Page 115</p> <p>1 alleged seizure.</p> <p>2 Q. Well, did you write alleged in your</p> <p>3 report?</p> <p>4 A. No.</p> <p>5 Q. And you used the word twice.</p> <p>6 A. Yes, I did.</p> <p>7 Q. Did you use the adjective alleged</p> <p>8 in front of seizure either time?</p> <p>9 A. No, sir, I didn't.</p> <p>10 Q. Okay. And you wrote that report on</p> <p>11 1-21-2015, right?</p> <p>12 A. That's correct.</p> <p>13 Q. So only now are you calling it an</p> <p>14 alleged.</p> <p>15 MR. STUBBS: Object to the form.</p> <p>16</p> <p>17 Q. Is that right?</p> <p>18 MR. STUBBS: Object to the form.</p> <p>19</p> <p>20 Q. Is that right?</p> <p>21 A. No.</p> <p>22 Q. Well, did you call it alleged</p> <p>23 before?</p>
<p style="text-align: right;">Page 114</p> <p>1 were present and witnessed what you claim was</p> <p>2 outrageous behavior go get a warrant for</p> <p>3 T.H.?</p> <p>4 A. Not that I'm aware of.</p> <p>5 Q. At the time that she was first</p> <p>6 being held down when she came out of her</p> <p>7 seizure, had she committed a crime?</p> <p>8 MR. STUBBS: Object to the form.</p> <p>9</p> <p>10 Q. You can answer.</p> <p>11 A. Not that I know of.</p> <p>12 Q. So was there any reason to continue</p> <p>13 to hold her down?</p> <p>14 A. When she came out of her seizure,</p> <p>15 it was like flipping a switch. She went from</p> <p>16 a split second to screaming, out of control,</p> <p>17 hysterical, swearing, bucking, thrashing</p> <p>18 individual.</p> <p>19 Q. And that was after she came out of</p> <p>20 her seizure.</p> <p>21 A. Just that quick.</p> <p>22 Q. After she came out of her seizure.</p> <p>23 A. I guess out of her seizure or</p>	<p style="text-align: right;">Page 116</p> <p>1 A. No, not on that statement, I</p> <p>2 didn't.</p> <p>3 Q. Well, let's look at your use of</p> <p>4 force form. Do you have it in front of you?</p> <p>5 A. Okay.</p> <p>6 Q. Do you have it?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Do you see it?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Can you read it?</p> <p>11 A. Yes, I can.</p> <p>12 Q. Do you see the word alleged?</p> <p>13 A. No, I don't.</p> <p>14 Q. So you didn't call it alleged in</p> <p>15 the use of force form. And you didn't call</p> <p>16 it alleged in your statement. Only now are</p> <p>17 you calling it alleged, correct?</p> <p>18 MR. STUBBS: Object to the form.</p> <p>19</p> <p>20 Q. Is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. And you've been sued now,</p> <p>23 correct?</p>

<p style="text-align: right;">Page 117</p> <p>1 A. Correct.</p> <p>2 Q. You had not been sued at the time</p> <p>3 that you filled out the use of force form,</p> <p>4 had you?</p> <p>5 A. That's correct.</p> <p>6 Q. And you had not been sued at the</p> <p>7 time that you filled out your statement, had</p> <p>8 you?</p> <p>9 A. That's correct.</p> <p>10 Q. Have you ever Tased anyone prior to</p> <p>11 January 16, 2015?</p> <p>12 A. Yes.</p> <p>13 Q. How many times?</p> <p>14 A. One.</p> <p>15 Q. When was that?</p> <p>16 A. That was five, six years ago.</p> <p>17 Q. While you were employed by the</p> <p>18 Rainbow City Police Department?</p> <p>19 A. Yes.</p> <p>20 Q. Tell me about the events that led</p> <p>21 to that Tasing.</p> <p>22 A. We had a call over at the Conoco</p> <p>23 Station about somebody trying to pass a</p>	<p style="text-align: right;">Page 119</p> <p>1 officer down in the Conoco. He went outside.</p> <p>2 Somebody shot him with a Taser. He ran. He</p> <p>3 went down and got right back up. I shot him</p> <p>4 with my Taser, and he pulled the prongs out</p> <p>5 and ran, car jacked a car. And then it was</p> <p>6 like a three day man hunt and we finally got</p> <p>7 him.</p> <p>8 Q. So in that instance, he had</p> <p>9 assaulted an officer.</p> <p>10 A. Yes.</p> <p>11 Q. And although you didn't know he was</p> <p>12 a wanted felon -- you said wanted or</p> <p>13 convicted?</p> <p>14 A. Wanted, convicted. I think he was</p> <p>15 both.</p> <p>16 Q. Well, there is a difference.</p> <p>17 A. I think he had been convicted, been</p> <p>18 to prison and out. And then he had done</p> <p>19 another crime, and he was wanted for that.</p> <p>20 Q. But you guys didn't know that at</p> <p>21 the time, right?</p> <p>22 A. No, we didn't.</p> <p>23 Q. And is that the only time you've</p>
<p style="text-align: right;">Page 118</p> <p>1 stolen check. And when we got there -- I</p> <p>2 believe we had just got computers in our cars</p> <p>3 where we could actually run people.</p> <p>4 And I grabbed the female's driver's</p> <p>5 license and ran it. It came back an entirely</p> <p>6 different person. Same person, different</p> <p>7 picture. They had altered the driver's</p> <p>8 license and put her picture trying to cash</p> <p>9 this stolen check.</p> <p>10 And so at that time, we were going</p> <p>11 to try to identify everybody that was in the</p> <p>12 store and in the vehicle that went up there.</p> <p>13 And there was a man in the bathroom.</p> <p>14 Q. You were going to try to do what?</p> <p>15 A. Identify everybody that was in that</p> <p>16 vehicle that was in there.</p> <p>17 Q. Okay.</p> <p>18 A. And the officer went in there to</p> <p>19 get him, knocked on the door, and he came out</p> <p>20 swinging, fighting, running. He was a wanted</p> <p>21 felon.</p> <p>22 Q. Did you know that at the time?</p> <p>23 A. No, we didn't. He knocked an</p>	<p style="text-align: right;">Page 120</p> <p>1 ever Tased someone besides T.H.?</p> <p>2 A. Using a Taser?</p> <p>3 Q. Is there another way to Tase</p> <p>4 someone?</p> <p>5 A. Well, we had at Gadsden hand-held</p> <p>6 Tasers.</p> <p>7 Q. You mean a cattle prod?</p> <p>8 A. No, no. It was hand-held. And it</p> <p>9 was years ago. Gadsden bought them. And the</p> <p>10 prongs were farther apart, but you couldn't</p> <p>11 shoot a cartridge. So it had to be something</p> <p>12 like up close to Tase somebody.</p> <p>13 Q. Like a drive stun.</p> <p>14 A. Like a drive stun. We had those.</p> <p>15 And I had used that before previously.</p> <p>16 Q. Who was that used on?</p> <p>17 A. To be honest with you, I can't</p> <p>18 remember.</p> <p>19 Q. Did you have to fill out a use of</p> <p>20 force report?</p> <p>21 A. Yes.</p> <p>22 Q. And when you discharged the Taser</p> <p>23 over at the Conoco Station, as a member of</p>

<p style="text-align: right;">Page 121</p> <p>1 the Rainbow City Police Department, did you</p> <p>2 fill out a use of force report?</p> <p>3 A. I'm sure I did.</p> <p>4 Q. Well, did you?</p> <p>5 A. I'm sure I did. That's our policy.</p> <p>6 Q. And you used your prongs that time,</p> <p>7 right?</p> <p>8 A. Right.</p> <p>9 Q. Was it the X-26?</p> <p>10 A. The X-26.</p> <p>11 Q. Did the confetti come out?</p> <p>12 A. The confetti?</p> <p>13 Q. Yes.</p> <p>14 A. Are you talking about the strings,</p> <p>15 the prongs?</p> <p>16 Q. No, sir, the anti-felon confetti.</p> <p>17 A. Anti what?</p> <p>18 Q. Felon confetti. F-e-l-o-n.</p> <p>19 A. I'm not familiar with that.</p> <p>20 Q. Okay. Do you have to buy</p> <p>21 cartridges for your Taser on a regular basis,</p> <p>22 or are those provided?</p> <p>23 A. They're provided for us.</p>	<p style="text-align: right;">Page 123</p> <p>1 you've ever seen that document before.</p> <p>2</p> <p>3 (Plaintiff's Exhibit Number 6 was</p> <p>4 marked for identification and same is</p> <p>5 attached hereto.)</p> <p>6</p> <p>7 A. (Witness reviewing document.) To</p> <p>8 be honest with you, I'm not sure if I've seen</p> <p>9 this before or not.</p> <p>10 Q. Do you know what it is?</p> <p>11 A. It looks like a warning from Taser.</p> <p>12 Q. Well, it's titled, Taser hand-held</p> <p>13 CEW. Do you know what a CEW is?</p> <p>14 A. No, sir.</p> <p>15 Q. It's Conductive Electrical Weapon,</p> <p>16 which is the Taser.</p> <p>17 A. Okay.</p> <p>18 Q. So this is a Taser CEW warnings,</p> <p>19 instructions and information for law</p> <p>20 enforcement. So this is important safety and</p> <p>21 health information, right?</p> <p>22 A. Yes.</p> <p>23 Q. Do you see that?</p>
<p style="text-align: right;">Page 122</p> <p>1 Q. And how often are they changed out</p> <p>2 if you've only used yours once in the last</p> <p>3 five years?</p> <p>4 A. I haven't changed it out. I still</p> <p>5 have the same cartridge.</p> <p>6 Q. You do?</p> <p>7 A. I believe, yes.</p> <p>8 Q. Have you received any updated</p> <p>9 material from Taser International through the</p> <p>10 Rainbow City Police Department?</p> <p>11 A. I'm not sure. I can't remember. I</p> <p>12 get a lot of stuff.</p> <p>13 Q. Do you shred it?</p> <p>14 A. No.</p> <p>15 Q. So when you get it, you keep it?</p> <p>16 A. If I get anything, directives or</p> <p>17 anything like that, I put it in my desk or in</p> <p>18 a file.</p> <p>19 Q. Do you read it?</p> <p>20 A. Yes, most of the time.</p> <p>21 Q. Let me show you this document that</p> <p>22 we will mark as Plaintiff's Exhibit Number 6</p> <p>23 to your deposition. And I'll ask you if</p>	<p style="text-align: right;">Page 124</p> <p>1 A. Yes.</p> <p>2 Q. All right. Do you see the third</p> <p>3 full paragraph that starts with these</p> <p>4 warnings and instructions?</p> <p>5 A. Yes, sir.</p> <p>6 Q. It says these warnings and</p> <p>7 instructions are effective March 1st, 2013,</p> <p>8 which would have been two years and ten</p> <p>9 months prior to January of 2015; is that</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. And they supercede all prior</p> <p>13 revisions and relevant training bulletins.</p> <p>14 Immediately distribute this document to all</p> <p>15 Taser CEW users. The most current warnings</p> <p>16 are also available online at www dot Taser</p> <p>17 dot com. And your testimony is, you don't</p> <p>18 recall receiving this document; is that</p> <p>19 right?</p> <p>20 A. I don't remember.</p> <p>21 Q. If you received it, would you still</p> <p>22 have it?</p> <p>23 A. I would.</p>

<p style="text-align: right;">Page 125</p> <p>1 Q. If you received it, would you have 2 read it?</p> <p>3 A. Quite possibly. To be honest with 4 you, maybe, maybe not. I don't know. I'm 5 not familiar with that document.</p> <p>6 Q. Okay. And if you've never seen it, 7 that's fine. I just thought that since it 8 said distribute to anybody who uses the Taser 9 that you would have seen it.</p> <p>10 MR. STUBBS: Object to the form. 11</p> <p>12 Q. And you are still issued a Taser, 13 right?</p> <p>14 A. Yes, sir.</p> <p>15 MR. HARP: Okay. Let's take a 16 short break. 17</p> <p>18 (Whereupon, a brief recess was 19 taken.) 20</p> <p>21 Q. Mr. Morris, we're back on the 22 record. After you Tased T.H., you said you 23 left and went to break up a fight; is that</p>	<p style="text-align: right;">Page 127</p> <p>1 MR. HOWARD: Okay. That wasn't 2 yours, was it?</p> <p>3 MR. HARP: No, sir. 4</p> <p>5 Q. All right. I'm going to show you 6 what I'm going to mark as Plaintiff's Exhibit 7 Number 7 to your deposition. 8</p> <p>9 (Plaintiff's Exhibit Number 7 was 10 marked for identification and same is 11 attached hereto.) 12</p> <p>13 Q. It's a photograph of a gentleman. 14 Do you recognize that gentleman?</p> <p>15 A. Jimmy Fazekas.</p> <p>16 Q. Okay. Was he present when you 17 Tased T.H.?</p> <p>18 A. I'm not sure.</p> <p>19 Q. Okay. I'm going to show you what 20 I'm going to mark as Plaintiff's Exhibit 21 Number 8 to your deposition. 22</p> <p>23 (Plaintiff's Exhibit Number 8 was</p>
<p style="text-align: right;">Page 126</p> <p>1 right?</p> <p>2 A. Yes.</p> <p>3 Q. Did any officer go with you?</p> <p>4 A. I don't recall. I think maybe 5 Officer Roberts, or he may have been the one 6 fighting.</p> <p>7 Q. He was the one fighting?</p> <p>8 A. Or was in a fight, yeah. Officer 9 Roberts or Camp Yancey, one or the other.</p> <p>10 Q. Is that Richard Roberts?</p> <p>11 A. Yes.</p> <p>12 Q. Is that the same Richard Roberts 13 that shot the gentleman over in Rainbow City?</p> <p>14 A. Yes.</p> <p>15 Q. And that was last year, right? And 16 there is a lawsuit filed about that?</p> <p>17 A. I don't know.</p> <p>18 Q. You don't know?</p> <p>19 A. I don't know.</p> <p>20 MR. HOWARD: Greg, do you want a 21 true answer as to that lawsuit?</p> <p>22 MR. HARP: Well, I know the answer. 23 I just wanted to see if he knew.</p>	<p style="text-align: right;">Page 128</p> <p>1 marked for identification and same is 2 attached hereto.) 3</p> <p>4 Q. Do you recognize the gentleman in 5 that photograph?</p> <p>6 A. Chief Greg Carroll.</p> <p>7 Q. Was he present when you Tased T.H.?</p> <p>8 A. Yes.</p> <p>9 Q. Let me show you what I'm going to 10 mark as Plaintiff's Exhibit Number 9 to your 11 deposition. 12</p> <p>13 (Plaintiff's Exhibit Number 9 was 14 marked for identification and same is 15 attached hereto.) 16</p> <p>17 Q. Do you recognize the person in that 18 photograph?</p> <p>19 A. I'm not sure who that is.</p> <p>20 Q. You're not sure who that is?</p> <p>21 A. No.</p> <p>22 Q. Did you get a good look at the 23 person you Tased on the night of January 16,</p>

<p style="text-align: right;">Page 129</p> <p>1 2015?</p> <p>2 A. Yes.</p> <p>3 Q. Is that the person you Tased on</p> <p>4 January 16, 2015?</p> <p>5 A. I believe so.</p> <p>6 Q. You believe so?</p> <p>7 A. I believe so. I'm not a hundred</p> <p>8 percent sure.</p> <p>9 Q. Let me show you what I'm going to</p> <p>10 mark as Plaintiff's Exhibit Number 10 to your</p> <p>11 deposition.</p> <p>12</p> <p>13 (Plaintiff's Exhibit Number 10 was</p> <p>14 marked for identification and same is</p> <p>15 attached hereto.)</p> <p>16</p> <p>17 Q. Does that scene look familiar to</p> <p>18 you?</p> <p>19 A. Yes.</p> <p>20 Q. What does that scene look like to</p> <p>21 you?</p> <p>22 A. It looks like somebody being held</p> <p>23 down.</p>	<p style="text-align: right;">Page 131</p> <p>1 Will you take a look at that?</p> <p>2</p> <p>3 (Plaintiff's Exhibit Number 11 was</p> <p>4 marked for identification and same is</p> <p>5 attached hereto.)</p> <p>6</p> <p>7 A. (Witness reviewing document.) I</p> <p>8 don't remember seeing this.</p> <p>9 Q. Okay. If you would, go to the</p> <p>10 complaint that's filed in this case. We</p> <p>11 marked it as an exhibit earlier. And turn</p> <p>12 with me to page thirty-six of your complaint.</p> <p>13 A. Okay.</p> <p>14 Q. At the time that you Tased T.H.,</p> <p>15 understanding that you say you only Tased her</p> <p>16 once, at the time that you Tased T.H. on</p> <p>17 January 16, 2015, was it absolutely necessary</p> <p>18 for you to Tase T.H.?</p> <p>19 A. Yes.</p> <p>20 Q. At the time that you Tased T.H. on</p> <p>21 January 16, 2015, was T.H. being restrained</p> <p>22 by other police officers?</p> <p>23 A. They were attempting to restrain</p>
<p style="text-align: right;">Page 130</p> <p>1 Q. Do you recognize who that is being</p> <p>2 held down?</p> <p>3 A. I assume it's the juvenile, T.H.</p> <p>4 Q. All right. I don't want you to</p> <p>5 assume. Do you know who that is?</p> <p>6 A. I believe that's the juvenile, T.H.</p> <p>7 Q. Does that appear to be the clothing</p> <p>8 that T.H. was wearing on the night of January</p> <p>9 16, 2015?</p> <p>10 A. I don't remember her clothing.</p> <p>11 Q. What about that scene depicted in</p> <p>12 that photograph, which is Plaintiff's Exhibit</p> <p>13 Number 10 leads you to believe that that's</p> <p>14 T.H.?</p> <p>15 A. It looks like it was Center Stage,</p> <p>16 I guess. It looks like people are holding</p> <p>17 her down. I'm assuming that's her.</p> <p>18 Q. I'm going to show you what I will</p> <p>19 mark as Plaintiff's Exhibit Number 11 to your</p> <p>20 deposition and ask you if you have seen this</p> <p>21 document before today? It's the answer to</p> <p>22 the first amended complaint by Defendants,</p> <p>23 Rainbow City, Carroll, Fazekas and Morris.</p>	<p style="text-align: right;">Page 132</p> <p>1 her.</p> <p>2 Q. Were her legs being held down?</p> <p>3 A. I believe so.</p> <p>4 Q. Were her arms being held down?</p> <p>5 A. Yes.</p> <p>6 Q. Could she run away if she had</p> <p>7 wanted to?</p> <p>8 A. Not right then.</p> <p>9 Q. And that's before you Tased her,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And when you Tased her, you did</p> <p>13 that in the presence of other Rainbow City</p> <p>14 police officers, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And you said you don't have any</p> <p>17 remorse whatsoever about Tasing T.H. that</p> <p>18 night, right?</p> <p>19 A. None.</p> <p>20 Q. Even though her arms were held</p> <p>21 down, you still don't have any remorse.</p> <p>22 A. No.</p> <p>23 Q. You don't care that you Tased her.</p>

<p style="text-align: right;">Page 133</p> <p>1 MR. STUBBS: Object to the form.</p> <p>2</p> <p>3 Q. You can answer.</p> <p>4 A. You're asking if I care, but based</p> <p>5 on her actions, no, there is no remorse.</p> <p>6 Q. No remorse whatsoever.</p> <p>7 A. With her actions, no.</p> <p>8 Q. You're just completely indifferent</p> <p>9 to it.</p> <p>10 MR. HOWARD: Object to the form.</p> <p>11</p> <p>12 A. I didn't say I was indifferent.</p> <p>13 Q. Well, do you have a strong feeling</p> <p>14 about it?</p> <p>15 A. If she would have acted right and</p> <p>16 listened to the commands and behaved, she</p> <p>17 wouldn't have been Tased.</p> <p>18 Q. You Tased her because she wouldn't</p> <p>19 listen to commands; is that right?</p> <p>20 MR. STUBBS: Object to the form.</p> <p>21</p> <p>22 Q. Is your testimony if she had acted</p> <p>23 right and listened to the commands and</p>	<p style="text-align: right;">Page 135</p> <p>1 Q. What was the crime?</p> <p>2 A. Disorderly conduct.</p> <p>3 Q. Which consisted of what?</p> <p>4 A. Yelling, cussing, swearing,</p> <p>5 offending people.</p> <p>6 Q. You think yelling is a crime?</p> <p>7 A. Swearing is in public.</p> <p>8 Q. You think swearing in public is a</p> <p>9 crime?</p> <p>10 A. It is.</p> <p>11 Q. You think on January 16, 2015,</p> <p>12 swearing in public was a crime.</p> <p>13 A. Yes.</p> <p>14 Q. In any setting?</p> <p>15 A. If it offends people. If it</p> <p>16 offends people, it's a crime.</p> <p>17 Q. You were at a rap concert.</p> <p>18 A. Yes.</p> <p>19 Q. For Kevin Gates.</p> <p>20 A. Yes.</p> <p>21 Q. A gentleman whose entire catalog is</p> <p>22 filled with nothing but profanity. Did that</p> <p>23 offend you?</p>
<p style="text-align: right;">Page 134</p> <p>1 behaved, she wouldn't have been Tased?</p> <p>2 A. That's correct.</p> <p>3 Q. How did you feel about being called</p> <p>4 a stupid mother fucker by T.H.? Did it</p> <p>5 matter to you?</p> <p>6 A. Indifferent.</p> <p>7 Q. Indifferent. How did you feel</p> <p>8 about being called a pig by T.H.? Did it</p> <p>9 matter to you?</p> <p>10 A. No, sir.</p> <p>11 Q. Well, if it didn't matter to you</p> <p>12 that she called you a stupid mother fucker</p> <p>13 and it didn't matter to you that she called</p> <p>14 you a pig, why did you Tase her?</p> <p>15 A. Because of her actions.</p> <p>16 Q. But her actions were --</p> <p>17 A. Her actions were --</p> <p>18 Q. -- cursing.</p> <p>19 A. -- bucking, trying to get away,</p> <p>20 trying to rip away from the officers.</p> <p>21 Q. But she had not committed a crime.</p> <p>22 A. She was committing a crime at the</p> <p>23 time.</p>	<p style="text-align: right;">Page 136</p> <p>1 A. I didn't listen to it.</p> <p>2 Q. Did it offend you?</p> <p>3 A. It didn't offend me. I didn't</p> <p>4 listen to it. I don't know what he was</p> <p>5 saying.</p> <p>6 Q. Well, what's the difference between</p> <p>7 Kevin Gates cussing on stage and T.H. cussing</p> <p>8 while being held down by police officers?</p> <p>9 Other than her words were directed to you.</p> <p>10 What is the difference?</p> <p>11 A. They were directed at everyone.</p> <p>12 Q. At whom?</p> <p>13 A. Other people, officers, patrons.</p> <p>14 Q. You would agree that she probably</p> <p>15 wasn't telling the patrons standing around to</p> <p>16 let her go, you stupid mother fuckers.</p> <p>17 A. I would agree with that.</p> <p>18 Q. Okay. So that wasn't directed to a</p> <p>19 patron, right?</p> <p>20 A. Not at that time.</p> <p>21 Q. And that wasn't directed to any</p> <p>22 officer that wasn't holding her, right?</p> <p>23 A. I can't speculate on that.</p>

<p style="text-align: right;">Page 137</p> <p>1 Q. So who was let me go, you stupid 2 mother fuckers directed to? 3 MR. STUBBS: Object to the form. 4 5 Q. You can answer. 6 A. I assume it was the officers. 7 Q. Who were holding her down, 8 correct? 9 A. Yes. 10 Q. So other than cussing and bucking 11 around, was there anything else that you 12 observed T.H. doing that you felt warranted 13 her being Tased? 14 A. No. 15 Q. So T.H. was Tased by you for 16 cussing and bucking around while being held 17 down by officers. 18 A. Yes. 19 Q. And do you know why the officers 20 were holding her down? 21 A. She was trying to fight. 22 Q. Do you know why Detective Gilliland 23 says he first started holding T.H. down?</p>	<p style="text-align: right;">Page 139</p> <p>1 would have been a fight. 2 Q. You don't know that though, do you? 3 You don't know that, do you? Are you 4 psychic? 5 A. No, I'm not. Based on her actions 6 though, it was going to be a fight. 7 Q. You don't know that though, do you? 8 You don't know that, do you? 9 A. No, I don't. 10 Q. And you didn't know whether or not 11 she would fight someone when they let her go 12 at the time you Tased her, did you? 13 A. No. 14 Q. And, in fact, she couldn't have 15 fought anyone at the time that you Tased her 16 because her arms and legs were being held 17 down by police officers, correct? 18 MR. STUBBS: Object to the form. 19 20 Q. You can answer. 21 A. Yes. 22 Q. And at the time that you Tased her, 23 at least one of the times, Detective</p>
<p style="text-align: right;">Page 138</p> <p>1 A. I think he said she was having a 2 seizure, a medical problem. 3 Q. Right. And he didn't want her to 4 hurt herself. Do you know why Officer 5 Kimbrough says he was holding her down? 6 A. I believe he said it was seizures. 7 Q. And he was holding her because he 8 didn't want her to hurt herself, correct? 9 A. Yes. 10 Q. So if the officers holding her down 11 were holding her down, according to their 12 statements, because they didn't want her to 13 hurt herself, once she said let me go, 14 whether she said let me go you stupid mother 15 fuckers or please let me go or whatever, 16 don't you agree as a reasonable officer on 17 the scene, they should have let her go? 18 MR. STUBBS: Object to the form. 19 20 Q. You can answer. 21 A. No. 22 Q. Well, she hadn't committed a crime. 23 A. If they would have let her go, it</p>	<p style="text-align: right;">Page 140</p> <p>1 Gilliland says he was holding her neck in a 2 rear choke hold. 3 MR. STUBBS: Object to the form. 4 MS. CHANDLER: Object to the form. 5 6 Q. You can answer. 7 A. I don't recall that. 8 Q. You don't recall that. Pick up his 9 statement. 10 A. I read his statement, but I don't 11 recall him holding her in a choke hold. 12 Q. Okay. How do you recall him 13 holding her? 14 A. I thought he was holding down on 15 her shoulders or up around her head. My 16 focus wasn't on him or the other officers. 17 It was on her. She was bucking around, 18 trying to get loose, trying to fight. 19 Q. How do you know she was trying to 20 fight? 21 A. Based on her actions. Based on 22 years of experience of dealing with people. 23 She was out of control. She was violent.</p>

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1 Q. But why was she out of control?

2 A. I have no idea.

3 Q. Shouldn't you have found out before

4 you Tased her?

5 MR. STUBBS: Object to the form.

6

7 Q. You can answer.

8 A. I couldn't interview her.

9 Q. Well, you could. She was a captive

10 audience. They had her arms and legs pinned

11 down, right?

12 MR. STUBBS: Object to the form.

13

14 Q. Is that right?

15 A. She wasn't a compliant subject.

16 There was nothing you were going to tell her

17 to make her stop.

18 Q. Did you try?

19 A. I told her to settle down.

20 Q. Or?

21 A. I would Tase you.

22 Q. So you didn't try to make her stop.

23 You gave her a threat that you would Tase

Page 142

1 her, correct?

2 MR. STUBBS: Object to the form.

3

4 A. Yes, I did. I told her. Yes, I

5 told her I would Tase her.

6 Q. And she had just come out of a

7 seizure, according to what you wrote in your

8 report; is that right?

9 A. Yes.

10 Q. And according to what you put on

11 your use of force report --

12 A. Yes.

13 Q. -- she had just come out of a

14 seizure.

15 A. Yes.

16 Q. And when she came out of that

17 seizure, she was being held down by police

18 officers by her arms and legs on her back,

19 correct?

20 A. Yes.

21 Q. And how long after she came out of

22 her seizure was it before you Tased her?

23 A. Several minutes.

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1 Q. Several minutes.

2 A. I believe.

3 Q. So she was held down by her arms

4 and legs several minutes while she was

5 yelling let me go, you stupid mother fuckers,

6 and at the expiration of several minutes, you

7 Tased her.

8 MR. STUBBS: Object to the form.

9

10 Q. Is that right?

11 A. Yes.

12 Q. And none of the officers ever let

13 her go.

14 A. Not to my knowledge.

15 Q. She never ran away; is that

16 right?

17 A. Not that I'm aware of.

18 Q. And none of the officers were

19 injured; is that right?

20 A. I don't believe so.

21 Q. Well, have you seen any injury

22 reports on any officers --

23 A. No, sir.

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1 Q. -- that were caused by T.H.?

2 A. No, sir.

3 Q. And she wasn't arrested, correct?

4 A. That's correct.

5 Q. She wasn't put in handcuffs; is

6 that correct?

7 A. That's correct.

8 Q. She wasn't charged with an offense.

9 A. That's correct.

10 Q. The only thing that happened to her

11 that night is she had a seizure, she was held

12 down by police officers and you Tased her.

13 MR. STUBBS: Object to the form.

14

15 Q. Is that right?

16 A. The way you phrased it, that's

17 right.

18 Q. Okay. Phrase it for me the way you

19 would phrase it.

20 A. I mean, if you saw what I saw and

21 witnessed what I saw and her actions is the

22 reason she got Tased.

23 Q. And that reason is?

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1 A. She was out of control.

2 Q. But she wasn't moving her arms

3 because they were held down.

4 A. She was trying to move her arms.

5 Q. But she wasn't moving her arms

6 because they were held down, right?

7 A. That's correct.

8 Q. And she wasn't moving her legs

9 because they were held down, right?

10 A. That's correct.

11 Q. She wasn't moving her head because

12 Detective Gilliland said in his statement

13 that he was holding her head, right?

14 MR. STUBBS: Object to the form.

15

16 A. Correct.

17 Q. So what part of her body was

18 moving?

19 A. From her chest, hips, bucking,

20 thrashing.

21 Q. Have you ever heard of anyone being

22 injured by being hit by someone's chest?

23 A. Not that I recall.

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1 Q. Have you ever heard of anyone being

2 injured by being hit by someone's hips?

3 A. Not that I recall.

4 Q. Have you ever heard of anyone being

5 injured by being hit by someone's pelvis?

6 A. Not that I can recall right now.

7 Q. So what part of T■■■■'s body that

8 was moving and bucking and thrashing as you

9 described was a threat to you?

10 A. We were trying to get her to comply

11 with our orders and to calm down. And she

12 flatly refused to. And I dry stunned her two

13 seconds. It had no effect, none.

14 Q. Okay. I'm going to move to strike

15 that as non-responsive to my question. My

16 question was, what part of T■■■■'s body that

17 was moving and bucking and thrashing as you

18 described was a threat to you?

19 A. None.

20 Q. What part of T■■■■'s body that was

21 moving and bucking and thrashing as you

22 described was a threat to Chief Carroll?

23 A. None.

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1 Q. What part of T■■■■'s body that was

2 moving and bucking and thrashing as you

3 described was a threat to Officer

4 Gilliland?

5 A. None.

6 Q. What part of T■■■■'s body that was

7 moving and bucking and thrashing as you

8 described was a threat to Officer

9 Kimbrough?

10 A. None.

11 Q. What part of T■■■■'s body that was

12 moving and bucking and thrashing as you

13 described was a threat to the general

14 public?

15 A. None.

16 Q. Then why did you Tase T■■■■?

17 A. To get her to comply with my

18 commands to settle down, calm down.

19 Q. That's the only reason.

20 A. That's the reason.

21 Q. Not because she was a threat to

22 you, right?

23 A. Not at that time, she wasn't a

Page 148

1 threat.

2 Q. At the time you Tased her.

3 A. Yes.

4 Q. You didn't Tase her because she was

5 a threat to you.

6 A. She could have easily become a

7 threat.

8 Q. You didn't Tase her because she was

9 a threat to you, correct?

10 A. Correct.

11 Q. You didn't Tase her because she was

12 a threat to the general public, correct?

13 A. I didn't know that at that time.

14 Q. At the time you Tased her, she was

15 being held down, correct?

16 A. She was being held down.

17 Q. She wasn't a threat to the general

18 public at that time, was she?

19 A. That's correct, at that time.

20 Q. And you didn't Tase her because she

21 was a threat to any police officer there.

22 A. I did. She kicked Officer

23 Kimbrough.

<p style="text-align: right;">Page 149</p> <p>1 Q. Which is not in his statement. And 2 it's not in your statement either. That's 3 curious. I wanted to ask you about that. 4 Why didn't you put that in your statement? 5 A. I don't know. 6 Q. Why didn't you put that on the use 7 of force form? 8 A. I don't know. 9 Q. The first time that's come out is 10 after you've been sued that she kicked 11 Officer Kimbrough, correct? 12 MR. STUBBS: Object to the form. 13 14 Q. Is that right? 15 A. That's right. 16 Q. And the only person that mentions 17 that she kicked Officer Kimbrough is you 18 today in this deposition. 19 A. Okay. 20 MR. STUBBS: Object to the form. 21 22 Q. Is that right? 23 A. I'm not sure.</p>	<p style="text-align: right;">Page 151</p> <p>1 her go so that she could kick Officer 2 Kimbrough? 3 A. I don't know if her leg broke free 4 when he was holding her. She was twisting 5 sideways, bucking and fighting. I'm not sure 6 which leg. 7 Q. Do you understand why that's not 8 really plausible, Mr. Morris? 9 MR. STUBBS: Object to the form. 10 11 Q. It's your testimony sitting here 12 today that a grown man who is a trained 13 police officer, APOST certified, could not 14 hold down a seventeen-year-old girl. Is that 15 your testimony? 16 MR. STUBBS: Object to the form. 17 18 A. No. That's not my testimony. 19 Q. Well, what is your testimony? 20 A. My testimony is she was kicking. 21 She was out of control, bucking, thrashing, 22 trying to get up, trying to fight. 23 Q. How was she kicking if her legs</p>
<p style="text-align: right;">Page 150</p> <p>1 Q. Well, you've got the statements in 2 front of you. 3 A. I see their statements. 4 Q. Did Justin Gilliland say that she 5 kicked Officer Kimbrough? 6 A. I don't believe so. 7 Q. Did Officer Kimbrough say that he 8 got kicked by T.H.? 9 A. I don't believe so. 10 Q. Okay. So the only person that has 11 said that Officer Kimbrough was kicked, to 12 your knowledge, is you. 13 MR. STUBBS: Object to the form. 14 15 Q. Is that right? 16 A. Right. 17 Q. Now, did you Tase her before or 18 after she kicked Officer Kimbrough? 19 A. After. 20 Q. Now, which leg did she kick Officer 21 Kimbrough with? 22 A. I'm not sure. 23 Q. Who was holding her leg that let</p>	<p style="text-align: right;">Page 152</p> <p>1 were being held down? 2 A. I think her leg got loose and she 3 kicked him. 4 Q. So you're saying that a grown man 5 could not hold the legs of a 6 seventeen-year-old girl who is a police 7 officer trained, presumably APOST certified, 8 could not hold down the legs of a 9 seventeen-year-old girl that had just come 10 out of a seizure. That's your testimony. 11 MR. STUBBS: Object to the form. 12 13 Q. You can answer. 14 A. Yes. 15 Q. Do you believe that on the night of 16 January 16, 2015, you were acting under the 17 color of State law? Do you know what that 18 means? 19 MR. STUBBS: Object to the form. 20 21 A. Acting in my capacity as a police 22 officer? 23 Q. Yes.</p>

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1 A. Yes.

2 Q. Do you believe that you were acting
3 in your capacity as a police officer for
4 Rainbow City, Alabama?

5 A. Yes.

6 Q. Has anyone told you anything to the
7 contrary?

8 A. No, sir.

9 MR. HARP: That's all I have. I
10 may have some follow-up depending on what
11 these others have to ask you.

12 MR. STUBBS: No questions.

13 MS. CHANDLER: No questions.

14 MR. HOWARD: No questions.

15 MR. HARP: All right. Thank you
16 for your time.

17

18

19

20 FURTHER DEPONENT SAITH NOT
21 ENDING TIME: 5:30 p.m.

22

23 CERTIFICATE

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1

2 STATE OF ALABAMA

3 ETOWAH COUNTY

4

5 I hereby certify that the above and
6 foregoing deposition was taken down by me in
7 stenotype and the questions and answers
8 thereto were transcribed by means of
9 computer-aided transcription, and that the
10 foregoing represents a true and correct
11 transcript of the testimony given by said
12 witness upon said hearing.

13 I further certify that I am neither of
14 counsel, nor of kin to the parties to the
15 action, nor am I in anywise interested in the
16 result of said cause.

17

18 /s/Beth Word

19 BETH WORD

20 ACCR #: 376

21 EXPIRES: 9/30/2016

22

23